

Additional Civil Trial Guidelines for Patent Cases
(Formerly, “Guidelines: Legal Expert Testimony
in Patent Cases;” Revised December 21, 2010)

Joint Pretrial Order. Parties shall submit **two** courtesy copies of their joint proposed pretrial order. Should the issues remaining for trial be narrowed or otherwise change following summary judgment, the parties may submit a revised proposed pretrial order prior to the pretrial conference, if time permits.

Status letter. Following the pretrial conference, the parties shall file on the case docket a joint status letter appraising the court of the issues remaining for trial, **specific to asserted claims.**

Patent DVD. In all patent jury trials, the court will show “An Introduction to the Patent System” to the jurors in connection with its preliminary jury instructions. This video, distributed by the Federal Judicial Center, is approximately 18 minutes long and provides jurors with an overview of patent rights in the United States, patent office procedure and the contents of a patent. **It is the parties’ responsibility to provide and play the DVD as a jury demonstrative.**¹

Expert testimony. In view of the fact that the jury is shown “An Introduction to the Patent System,” expert testimony from attorneys regarding patent practice and procedure is not required and will not be permitted except for extraordinary circumstances. “Expert” legal testimony (as opposed to technical testimony) on such substantive issues as invalidity (by anticipation, obviousness, on-sale bar, prior conception, etc.) and claim construction and infringement, generally is not admitted, as descriptions of the law and instructions on the law are matters for the court.

Jury instructions. The court has now published on its website standard jury instructions to be utilized in patent cases. The parties shall tailor these instructions to their case and provide the court, along with their paper courtesy copy, a CD or DVD containing their joint proposed jury instructions in **WordPerfect** format.

¹Any difficulty in this regard must be addressed with the court at the pretrial conference.