PATENT RULES
APPENDIX J
RULES OF THE UNITED STATES COURT OF FEDERAL CLAIMS

As amended through July 27, 2026

APPENDIX J
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TABLE OF CONTENTS

TITLE I. SCOPE OF RULES 189
Rule 1. Scope of Rules 189

TITLE II. PRELIMINARY PROCEEDINGS 189
Rule 2. Early Meeting of Counsel 189
Rule 3. Joint Preliminary Status Report 189

TITLE III. PATENT DISCLOSURES 189
Rule 4. Preliminary Disclosure of Infringement Contentions 189
Rule 5. Document Production Accompanying Preliminary Disclosure 190
Rule 6. Preliminary Disclosure of Invalidity Contentions 190
Rule 7. Document Production Accompanying Preliminary Disclosure of Invalidity Contentions 190
Rule 8. Response to Preliminary Disclosure of Invalidity Contentions 190

TITLE IV. CLAIM CONSTRUCTION 190
Rule 9. List of Proposed Claim Terms for Construction 190
Rule 10. Exchange of Proposed Claim Terms for Construction 191
Rule 11. Joint Claim Construction Chart 191
Rule 12. Joint Claim Construction Appendix and Prehearing Statement 191
Rule 13. Completion of Claim Construction Discover 191
Rule 14. Claim Construction Status Conference 191
Rule 15. Claim Construction Briefs 191

TITLE V. SETTLEMENT 191
Rule 16. Mandatory Settlement Discussions 191
Rule 17. Joint Statement of Compliance With Mandatory Settlement Discussions 192

TITLE VI. OTHER 192
Rule 18. Stay of Proceedings 192
Rule 19. Confidentiality 192
Rule 20. Good Faith Participation 192
Rule 21. Certification of Disclosures 192
Rule 22. Admissibility of Disclosures 192
Rule 23. Supplementation Requirements 192
Rule 24. Amendments 192

APPENDIX J
PATENT RULES OF THE UNITED STATES COURT OF FEDERAL CLAIMS

TITLE I. SCOPE OF RULES

Rule 1. Scope of Rules

(a) In General. These rules, cited as PRCFC, supplement the Rules of the United States Court of Federal Claims for civil actions instituted in the United States Court of Federal Claims under 28 U.S.C. § 1498(a) respecting patent claims.

(b) Modification. The court may modify the requirements or deadlines set forth in these rules based on:

(1) the complexity of the case; or

(2) for good cause shown.

TITLE II. PRELIMINARY PROCEEDINGS

Rule 2. Early Meeting of Counsel

When the parties confer pursuant to RCFC Appendix A, ¶ 3, in addition to the matters required to be addressed under that paragraph, the parties also should discuss the following topics for inclusion in the Joint Preliminary Status Report filed pursuant to RCFC Appendix A, ¶ 4:

(a) proposed modification of the obligations or deadlines set forth in these rules to ensure that they are suitable for the circumstances of the case;

(b) the scope and timing of any claim construction discovery;

(c) the format of the claim construction hearing;

(d) how the parties intend to educate the court on the technology at issue;

(e) whether each patent at issue has been, or is likely to be, subject to re-examination proceedings;

(f) whether other litigation or proceedings are ongoing or anticipated and whether any parties will seek a stay, consolidation, coordination, or transfer; and

(g) a non-binding, good-faith estimate of the damages range expected for the case along with an explanation for the estimate. If a party is unable to provide such information, that party must explain why it cannot and what specific information is needed before it can do so. Such party must also state the time by which it should be in a position to provide that estimate and explanation.

Rule 3. Joint Preliminary Status Report

For purposes of these rules, the Joint Preliminary Status Report required pursuant to RCFC Appendix A, ¶ 4, must be filed within 49 days after the filing of the answer or within 98 days after the filing of the answer in the event the

United States has filed a motion pursuant to RCFC 14 to notify interested parties and the court has granted the motion.

TITLE III. PATENT DISCLOSURES

Rule 4. Preliminary Disclosure of Infringement Contentions

Within 56 days after the filing of the answer, the plaintiff must serve on the defendant and any defendant-intervenors a Preliminary Disclosure of Infringement Contentions that includes the following information:

(a) the claim in each product, process, or method of each patent at issue that is allegedly infringed by each opposing party;

(b) for each asserted claim, each product, process, or method that allegedly infringes the identified claim. This identification must include the name and model number, if known, of the accused product, process, or method;

(c) a chart identifying where each element of each asserted claim is found within each accused product, process, or method, including the name and model number, if known;

(d) whether each element of each identified claim is alleged to be literally present or present under the doctrine of equivalents in the accused product, process, or method; and

(e) the priority date to which each asserted claim allegedly is entitled and whether the patentee is relying on the filing date or an earlier conception date as the priority date.

Rule 5. Document Production Accompanying Preliminary Disclosure

Together with the Preliminary Disclosure of Infringement Contentions, the plaintiff must produce to each opposing party or make available for inspection and copying:

(a) all documents that evidence any disclosure, sale, transfer, or offer to disclose, sell, or transfer the claimed invention prior to the date of application for each patent at issue;

(b) all documents that evidence the conception and first reduction to practice of each claimed invention that was created on or before the date of application for each patent at issue or the priority date identified in PRCFC 4(e);

(c) the file history with the United States Patent and Trademark Office for each patent at issue; and

(d) all documents that evidence ownership of the patent rights by the plaintiff.

Nothing in this disclosure may be considered an admission as to prior art or evidence of prior art pursuant to 35 U.S.C. §§ 102, 103.

Rule 6. Preliminary Disclosure of Invalidity Contentions

Within 56 days after the filing of the Preliminary Disclosure of Infringement Contentions, or as otherwise ordered by the court, the defendant and any defendant-intervenors must serve on all parties a Preliminary Disclosure of Invalidity Contentions containing the following information:

(a) the identity of each item or combination of items of prior art that allegedly anticipates each asserted claim or renders that claim obvious;

  (1) each prior art reference must be identified by number, country of origin, and date of issue;

  (2) each prior art publication must be identified by title, date of publication, and, where feasible, author and publisher;

  (3) prior art that evidences public use or sale must also specify the item publicly used or offered for sale, the date the use or offer took place, and the identity of the persons or entities that made the use or sale, or offer, and/or received an offer; and

  (4) the prior art reference must include a description of where, in each alleged item of prior art, each element of each asserted claim is found;

(b) an explanation of how each item of prior art, or combination thereof, anticipates each asserted claim and/or renders it obvious; and

(c) the identity and explanation of any other basis for invalidity, or unenforceability of any of the asserted claims.

Rule 7. Document Production Accompanying Preliminary Disclosure of Invalidity Contentions

Together with the Preliminary Disclosure of Invalidity Contentions, the defendant and any defendant-intervenors must produce to each opposing party, or make available for inspection or copying:

(a) documents that evidence the operation of any aspects or elements of the accused product, process, or method identified by the plaintiff as allegedly infringing; and

(b) a copy of any additional items of prior art identified that do not appear in the file history of any patent at issue.

Rule 8. Response to Preliminary Disclosure of Invalidity Contentions

[Rescinded.]

TITLE IV. CLAIM CONSTRUCTION

Rule 9. List of Proposed Claim Terms for Construction

(a) In General. Within 42 days after the filing of any response to the Preliminary Disclosure of Invalidity Contentions, each party must serve on all other parties a List of Claim Terms for Construction by the court and identify any claim terms that the party contends should be governed by 35 U.S.C. § 112(f).

(b) Number of Terms. Unless a showing of good cause is made and granted by the court, no more than 15 terms per patent family may be requested for construction.

(c) Designation. For each claim term to be construed, the parties must indicate whether it may be case or claim dispositive.

Rule 10. Exchange of Proposed Claim Terms for Construction

(a) In General. Within 28 days after receipt of the List of Proposed Claim Terms for Construction, each party must serve on all other parties a proposed construction for each claim term to be construed. Each party's proposed construction must identify all intrinsic and extrinsic evidence that supports the proposed construction.

(b) Narrowing the Number of Terms. Within 7 days after the exchange of proposed claim terms, all parties must meet and confer in an attempt to further narrow the number of claim terms.

Rule 11. Joint Claim Construction Chart

Within 35 days after the exchange of proposed claim terms, the parties must file a Joint Claim Construction Chart that includes:

(a) the claim terms and construction on which the parties agree; and

(b) each party's proposed construction of each disputed claim term, together with identification of intrinsic and extrinsic evidence on which the proposing party intends to rely.

Rule 12. Joint Claim Construction Appendix and Prehearing Statement

At the time the Joint Claim Construction Chart is filed, the parties must also file:

(a) a Joint Claim Construction Appendix and Prehearing Statement listing each patent at issue and the prosecution history for each;

  (1) the prosecution history must be paginated and cited as the Joint Appendix ("JA") when referenced; and

  (2) any party may also file a separate appendix containing other supporting material;

(b) each party's proposed definition of a Person of Ordinary Skill in the Art, or if the parties agree, a joint definition of a Person of Ordinary Skill in the Art;

(c) a proposed schedule for the Claim Construction Hearing;

(d) whether any party proposes to call one or more witnesses, including experts, at the Claim Construction Hearing, together with the identity of each witness and a short summary of the anticipated testimony; and

(e) whether any party intends to request a hearing on invalidity or indefiniteness.

Rule 13. Completion of Claim Construction Discovery

Within 28 days after the filing of the Joint Claim Construction Appendix and Prehearing Statement, the parties must complete all discovery relating to claim construction, including any depositions with respect to claim construction of any witnesses, including experts, identified in the Joint Claim Construction Appendix and Prehearing Statement.

Rule 14. Claim Construction Status Conference

Within 7 days after the filing of the Joint Claim Construction Appendix and Prehearing Statement, the court will schedule a status conference, to be held within 90 days thereafter, to set the date for the Claim Construction Hearing and discuss any other relevant matters with the parties.

Rule 15. Claim Construction Briefs

(a) Claim Construction Briefs are optional and any party may elect instead to rely on the Joint Claim Construction Chart.

(b) Any Claim Construction Briefs must be filed according to the following schedule:

  (1) within 56 days after the filing of the Joint Claim Construction Chart, the plaintiff may file a Claim Construction Brief;

  (2) within 28 days after the filing of the Claim Construction Brief, each opposing party may file a Responsive Claim Construction Brief; and

  (3) within 14 days after the filing of the Responsive Claim Construction Brief(s), the plaintiff may file a Reply Claim Construction Brief.

TITLE V. SETTLEMENT

Rule 16. Mandatory Settlement Discussions

The parties must meet and confer, in person, by telephone, or by videoconference:

(a) within 14 days after entry of the court's Claim Construction Opinion and Order;

(b) within 14 days after entry of an order on a motion seeking judgment of a claim or an affirmative defense, if the case is not dismissed; and
(c) within 14 days after the conclusion of trial.

Rule 17. Joint Statement of Compliance With Mandatory Settlement Discussions

Within 7 days after each settlement discussion, the parties must file with the court:
(a) a joint statement of compliance with PRCFC 16, indicating that settlement discussions were conducted and apprising the court of the outcome; or
(b) a motion requesting that the case be dismissed.

TITLE VI. OTHER

Rule 18. Stay of Proceedings

(a) In General. On motion, the court may stay the case pending a proceeding before the United States Patent and Trademark Office that concerns each patent at issue, *e.g.*, re-examination, *inter partes* review, or any other post-grant review proceeding.
(b) Grounds for a Stay. Whether the court stays the case depends on the circumstances of the case, including:
  (1) the stage of the litigation;
  (2) whether a stay will simplify the issues; and
  (3) whether a stay unduly will prejudice or present a clear tactical disadvantage to the nonmoving party.

Rule 19. Confidentiality

(a) In General. Absent court order, discovery may not be withheld on the basis of confidentiality.
(b) Protective Order. The court may issue a protective order at its discretion. A sample protective order for patent cases is found at Appendix of Forms, Form 8A.

Rule 20. Good Faith Participation

Failure to make a good faith effort to comply with these rules may subject counsel to sanctions.

Rule 21. Certification of Disclosures

All disclosures made pursuant to these rules must be dated and signed by counsel of record (or by the party if not represented by counsel) and are subject to the requirements of RCFC 26(g).

Rule 22. Admissibility of Disclosures

Statements, disclosures, or charts are admissible to the extent permitted by the Federal Rules of Evidence.

Rule 23. Supplementation Requirements

The requirements to supplement disclosure and discovery responses under RCFC 26 apply to all disclosures required by these rules.

Rule 24. Amendments

Amendment of the Preliminary Disclosure of Infringement Contentions or the Preliminary Disclosure of Invalidity Contentions may be made only by order of the court upon a timely showing of good cause. Non-exhaustive examples of circumstances that may, absent undue prejudice to the non-moving party, support a finding of good cause include:
(a) a claim construction by the court different from that proposed by the party seeking amendment;
(b) material changes to an opposing party's contentions;
(c) recent discovery of material prior art despite earlier diligent search; and
(d) recent discovery of nonpublic information about the accused product, process, or method that was not discovered, despite diligent efforts, before the service of the Preliminary Disclosure of Infringement Contentions.

The duty to supplement discovery responses does not excuse the need to obtain leave of court to amend contentions.

Rules Committee Note
2018 Adoption

The United States Court of Federal Claims Patent Rules, under 28 U.S.C. § 1498(a), supplement the court's existing rules by providing a structure to facilitate the fair and expeditious resolution of patent cases. The complexity of an individual case may require the

assigned judge to make adjustments to these rules in the interest of justice.

2026 Amendment

PRCFC 2(f) has been amended to expand the parties' obligation to confer about other relevant proceedings, rather than limiting the obligation to confer to *inter partes* proceedings.

PRCFC 2(g) has been added to encourage the parties to engage in early discussions of damages estimates.

PRCFC 4(e) has been amended by removing the introductory phrase "for each patent that claims priority to an earlier application" to avoid confusion when an earlier priority date is asserted for claims in patents that do not claim priority to an earlier application.

PRCFC 7(b) has been amended to clarify that if the prior art was cited in any of the patents at issue, defendant does not have to produce it under this rule.

PRCFC 8 has been rescinded as unnecessary. Cases in which an invalidity issue can be separated for early adjudication are rare, and in those cases, the court has discretion to establish an appropriate schedule.

PRCFC 9(b) has been amended to include the word "family" and thus to limit the number of terms per patent family. Allowing up to 15 terms per patent creates a burden in cases in which several patents are asserted from the same patent family. Patents from the same patent family, i.e., patents that claim priority to the same application, generally share a common or similar prosecution history and specification.

PRCFC 16 has been amended to allow the parties to meet and confer by videoconference and to allow more time for the parties to confer about settlement. PRCFC 16(b) has also been amended by removing reference to the court's Validity or Indefiniteness Opinion and Order because the court does not issue a validity or indefiniteness opinion in every case.

PRCFC 24 has been amended to provide non-exhaustive examples of circumstances that may justify an amendment to infringement and invalidity contentions.