

George Mason University Antonin Scalia Law School

PATENT LITIGATION & DISPUTE RESOLUTION SEMINAR

Law 438-001

Spring 2023

Thursdays 8:10-10:10 P.M.

SYLLABUS

INSTRUCTORS

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PATENT LITIGATION & DISPUTE RESOLUTION SEMINAR

Spring 2023

Course Materials

- (1) Case File; and
- (2) Selected statutes, rules, cases, and articles that may be assigned for reading during the semester.

Learning Outcomes

- (1) Students will be able to describe the approaches and underlying values of pleadings, fact discovery, claim construction, expert discovery, motion practice, and trial in a patent litigation;
- (2) Students will develop analytical, oral, and drafting skills by participating in a mock patent litigation;
- (3) Students will be able to apply those frameworks and skills to new patent cases; and
- (4) Students will be able to communicate their knowledge about patent litigation orally and in writing, to a variety of audiences, including practicing attorneys and judges.

PATENT LITIGATION (SPRING 2023)

CLASS	DATE	STUDENT PRESENTATION	FILINGS‡
1	JAN 19	None	Plaintiff GGI (Suffolk) to Serve Complaint <u>Sun., Jan. 22</u>
2	JAN 26	Present Draft Answer and Counterclaims* Present Draft Position Paper* Draft Initial Disclosures* Draft Discovery Requests*	Defendant AMC (GMU) to Serve Answer and Counterclaims <u>Sun., Jan. 29</u> Parties to Serve Initial Disclosures <u>Sun., Jan. 29</u> Parties to Serve Discovery Requests <u>Sun., Jan. 29</u>
3	FEB 2	Draft Discovery Responses* Present Revised Draft Position Paper*	Plaintiff (Suffolk) to Serve Response to Counterclaims <u>Sun., Feb. 5</u> Parties to Serve Discovery Responses <u>Sun., Feb. 5</u>

CLASS	DATE	STUDENT PRESENTATION	FILINGS‡
4	FEB 9	Draft Claim Chart (Invalidity)* Review Discovery Responses*	Parties to Serve Infringement and Invalidity Disclosures (Plaintiff re Infringement; Defendant re Invalidity) <u>Sun., Feb. 12</u> Parties to Exchange Proposed Claim Terms to Be Construed <u>Sun., Feb. 12</u>
5	FEB 16	Draft of proposed constructions* Draft Motions to Compel*	Parties to Meet and Confer on Final Claim Terms to be Construed <u>Fri., Feb. 17 by 5 p.m.</u> Parties to Exchange Proposed Constructions <u>Sun., Feb. 19</u> Parties Serve Motions to Compel (if necessary) <u>Sun., Feb. 19</u>
6	FEB 23	Draft of <i>Markman</i> Brief* Discuss <i>Markman</i> Argument Draft Oppositions to Motions to Compel*	Parties to Serve <i>Markman</i> Briefs <u>Sun., Feb. 26</u> Serve Oppositions to Motions to Compel <u>Sun., Feb. 26</u>

CLASS	DATE	STUDENT PRESENTATION	FILINGS‡
7	MAR 2	<i>Markman</i> Hearing <u>Thurs. Mar. 2, 8-10 PM</u> Location: Finnegan offices at 901 New York Ave., NW, Washington DC 20001	Court will issue Markman order, and order on any motions to compel, by Friday, Mar. 3
8	MAR 9	Draft Expert Report Outline* Review of Deposition Preparations	Parties to Serve Expert Reports <u>Sun., Mar. 12</u>
NO CLASS	MAR 16	SPRING RECESS	Parties to complete two depositions each by <u>Monday, March 20</u> (via telephone)
9	MAR 23	Draft Motion for Summary Judgment*	Parties to serve any Motions for Summary Judgment <u>Sun., Mar. 26</u>
10	MAR 30	Draft Opposition to Motion for Summary Judgment*	Parties to serve Oppositions to any Motions for Summary Judgment <u>Sun., Apr. 2</u>

CLASS	DATE	STUDENT PRESENTATION	FILINGS‡
11	APR 6	Draft Jury Instructions* Draft Motions in Limine*	Parties to serve Proposed Jury Instructions <u>Fri., Apr. 7</u> Parties to serve Motions in Limine <u>Fri., Apr. 7</u>
12	APR 13	Trial Preparation Draft Oppositions to Motions in Limine*	Parties will exchange witness lists <u>Fri., April 14 (noon)</u> Parties serve objections to proposed jury instructions (if necessary) <u>Fri., April 14 (noon)</u> Parties will serve any oppositions to any motions in limine <u>Mon., April 17</u> Parties will serve trial briefs (if requested) <u>Mon., April 17</u>
13	APR 20	Trial Preparation Draft Demonstrative Exhibits*	Parties to serve Demonstrative Exhibits <u>Fri., April 21 (noon)</u>
14	APR 22	Jury Trial Location: TBD	

DOCKET DATES[‡]

1.	Plaintiff (Suffolk) to serve Complaint	JAN 22
2.	Defendant (GMU) to serve Answer and Counterclaim	JAN 29
3.	Parties to serve Initial Disclosures	JAN 29
4.	Parties to serve discovery requests	JAN 29
5.	Plaintiff to serve response to counterclaim	FEB 5
6.	Parties to serve discovery responses	FEB 5
7.	Parties to serve infringement & invalidity disclosures (Plaintiff re infringement; Defendant re invalidity)	FEB 12
8.	Parties exchange claim terms to be construed	FEB 12
9.	Parties to meet and confer on final claim terms to be construed	FEB 17 (by 5 pm)
10.	Parties to serve proposed claim constructions	FEB 19
11.	Parties to serve motions to compel (if any)	FEB 19
12.	Parties to serve <i>Markman</i> briefs	FEB 26
13.	Parties to serve oppositions to motions to compel (if any)	FEB 26
14.	<i>Markman</i> hearing	MAR 2
15.	Parties to serve expert reports	MAR 12
16.	Parties to complete two (2) depositions each	MAR 20
17.	Parties to serve motion(s) for summary judgment	MAR 26
18.	Parties to serve oppositions to motions for summary judgment	APR 2
19.	Parties to serve proposed jury instructions	APR 7
20.	Parties to serve any motions in limine	APR 7
21.	Parties to serve witness list	APR 14 (noon)
22.	Parties to serve objections to proposed jury instructions	APR 14 (noon)
23.	Parties to serve any oppositions to motions in limine	APR 17
24.	Parties will serve trial briefs (if requested)	APR 17
25.	Parties to serve demonstrative exhibits	APR 21 (noon)
26.	Motions hearing and trial (location: TBD)	APR 22 (9 am)

LOCAL RULES‡

- 1.0 All service to be made by 10:00 p.m. Eastern on date due (unless otherwise noted).
- 2.0 All service to opposing counsel to be made via email, with copies to lauren.dowty@finnegan.com; cara.regan@finnegan.com; kassandra.officer@finnegan.com; sonja.sahlsten@finnegan.com; meredith.boerschlein@finnegan.com; PCS@foleyhoag.com.
- 3.0 Depositions limited to two (2) each side, one-hour limit each (taking party to provide transcript in five (5) days).
- 4.0 Interrogatories limited to five (5) each side, counting subparts.
- 5.0 No requests for admission permitted.
- 6.0 No expert depositions permitted.
- 7.0 *Markman* hearing by video conference, 30 minutes per side.
- 8.0 No damages discovery permitted (damages issues bifurcated).
- 9.0 Assignments denoted with * must be posted to TWEN by 6 p.m. the night before class.

‡ **CASE CALENDAR AND LOCAL RULES SUBJECT TO REVISION DUE TO COVID-19**