

**FILED**

**OCT 04 2011**

**AT 8:30 \_\_\_\_\_ M  
WILLIAM T. WALSH  
CLERK**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**IN RE: Amendment of Local Civil Rules** :  
: **ORDER**

The Court being vested with authority pursuant to 28 U.S.C. § 2071 & Rule 83 of the Federal Rules of Civil Procedure to make and amend local rules; proposed amendments to Local Civil Rules having been submitted for comment to the Lawyers Advisory Committee and to the Local Patent Rules Advisory Committee, and all comments having been considered, and the proposed amendments having been approved by the Board of Judges;

It is on this 4<sup>th</sup> day of **OCTOBER, 2011**, ORDERED that Local Civil Rules are amended to add the following provisions:

**L. Pat. R. 1.5. Patent Pilot Project**

Procedures for allocation and assignment of patent cases under the Patent Pilot Project pursuant to Pub. L. No. 111-349, § 1, are provided in L. Civ. R. 40.1(f) and Appendix T to the Local Civil Rules.

**L. Civ. R. 40.1**

(f) **Patent Pilot Project Cases.** The initial allocation and assignment of patent cases are governed by paragraphs (a), (b), and (c) above. The reallocation and reassignment of patent cases and certain non-patent cases under the Patent Pilot Project, pursuant to Pub. L. No. 11-349, between designated patent judges and non-designated patent judges, shall occur without regard to

the vicinage to which the case was originally allocated. Promptly after such reallocation and/or reassignment, the Clerk shall notify both the parties and the Judge of such reallocation and/or reassignment; objections to either the reallocation or the reassignment of such case shall be made before the Chief Judge, on notice to opposing counsel and to the Judge to whom the case has been assigned, and disposition of any objections shall be upon order of the Chief Judge, upon consideration of the convenience of litigants, counsel, and witnesses, the place where the cause of action arose, and the needs of equitable administration of the Patent Pilot Project. Operational details of the Patent Pilot Project are set forth in Appendix T to these Rules, which shall have the same force and effect as the provisions of these Rules.

#### **APPENDIX T. PROCEDURES FOR PATENT PILOT PROJECT CASES**

This Court, having been selected to participate in the Patent Pilot Project pursuant to Pub. L. No. 111-349, § 1, adopts the following procedures for allocation and assignment of patent cases filed or transferred to this Court on and after September 18, 2011 pursuant to L. Civ. R. 40.1(f) and L. Pat. R. 1.5:

1. “Patent cases,” for purposes of this Patent Pilot Project, consist of all civil actions filed in or transferred to this Court which allege infringement of a patent in a complaint, counterclaim, cross-claim, or third-party claim, or which seek declaratory judgment that a patent is not infringed, is invalid, or is unenforceable, see Local Patent Rule 1.2, but not including: (a) a case where the sole patent issue is false marking of patent designations upon goods or articles; (b) the reopening of a previously closed case; and (c) a case related to a currently-pending case under the standards of L. Civ. R. 40.1(c), which shall be assigned to the same District Judge as the pending case.
2. “Designated patent judges” are those District Judges who have volunteered, or

who in the future volunteer, to receive reassignments of patent cases under this Patent Pilot

Project. The current designated patent judges are:

Hon. Garrett E. Brown, Jr.(Trenton)

Hon. Renee M. Bumb (Camden)

Hon. Claire C. Cecchi (Newark)

Hon. Mary L. Cooper (Trenton)

Hon. Stanley R. Chesler (Newark)

Hon. Noel Hillman (Camden)

Hon. Faith S. Hochberg (Newark)

Hon. Joseph E. Irenas (Camden)

Hon. Joel A. Pisano (Trenton)

Hon. Peter G. Sheridan (Trenton)

Hon. Jerome B. Simandle (Camden)

Hon. Susan D. Wigenton (Newark)

3. Initial assignment of patent cases -- The Clerk of Court shall allocate and randomly assign newly filed patent cases to all judges in the same manner as other newly filed civil cases pursuant to L. Civ. R. 40.1(a),(b)&(c).

4. Reassignment of patent cases -- A judge who is not a “designated patent judge” may, within thirty (30) days of being assigned a “patent case,” as defined above, or within thirty (30) days of a case first becoming a “patent case” by virtue of the filing of an amended complaint, counterclaim, cross-claim, or third-party claim, request that the case be reassigned through the Clerk of Court to a designated patent judge. The judge requesting such reassignment shall cause a Minute Entry to be made upon the docket reflecting same, which triggers the

reassignment process. Reassignment may not be requested after expiration of the thirty-day period unless a conflict of interest arises after the expiration of the thirty-day period. The Clerk's Office shall use a Patent Pilot Project assignment deck for patent cases that are so transferred; each designated patent judge will have an equal number of cards in the Patent Pilot Project deck, except that a Senior District Judge who is a designated patent judge may elect to have a lesser number of cards in the Patent Pilot Project deck, which number is at least fifty percent of the number allotted to a full active District Judge. The Clerk will make a random reassignment of the patent case to a designated patent judge, without respect to the vicinage where the patent case was filed.

5. Reassignment of patent cases from a designated patent judge -- A designated patent judge may not request that a patent case be reassigned, except for such reasons as conflict of interest or other good cause as recognized in civil cases, subject to approval of the Chief Judge pursuant to L. Civ. R. 40.1(e); if the Chief Judge approves such reassignment of a patent case, the Clerk of Court shall make a random reassignment to another designated patent judge.

6. Equalization of judicial burden -- When a designated patent judge receives reassignment of a patent case, the Clerk of Court shall designate a non-patent civil case of similar complexity and age and make reassignment of the non-patent case to the docket of the original judge, and prepare an Order reflecting same for approval of the Chief Judge.

7. Designation of Magistrate Judge -- The designation of the Magistrate Judge for a newly filed patent case shall be accomplished in the same manner as for newly filed civil cases. If a patent case is reassigned, the patent case will likewise be reassigned to the Magistrate Judge who would have been designated if the patent case had initially been assigned to the designated patent judge.

8. New judge dockets -- Patent cases in the Patent Pilot Project are excluded from cases that may be selected to form an initial caseload for a new District Judge.

9. Death or resignation -- Upon death or resignation of a District Judge, patent cases upon that judge's docket in the Patent Pilot Project shall be reassigned at random to a designated patent judge within the same vicinage.

10. Annual review -- This Patent Pilot Project will be reviewed annually and revisions to these procedures will be made as necessary.

It is FURTHER ORDERED these amendments are retroactive to September 19, 2011.

FOR THE COURT:



GARRETT E. BROWN, JR.  
Chief Judge