

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO  
LAS CRUCES DIVISION**

**STC.UNM,**

**Plaintiff,**

**v.**

**INTEL CORPORATION**

**Defendant.**

**Civil No. 1:10-cv-01077-RB-WDS**

**PLAINTIFF'S REPLY BRIEF ON REQUEST FOR  
LIVE EXPERT TESTIMONY AT THE CLAIM CONSTRUCTION HEARING**

Both parties spent a day each deposing each other's expert on the issue of claim construction, and relied on the various opinions and admissions in their respective briefs. It is specious for Intel now to say that expert testimony would not be useful at the claim construction hearing. Further, the Federal Rules recognize the importance of having live testimony at a hearing in lieu of deposition testimony when a witness is available. *See* Fed. R. Civ. P. 32(a)(4)(E). Here, Intel has indicated in its response (at 1), that it can bring its expert to the hearing. Since the witnesses can be available, they would assist the court with live testimony regarding the technology and its application to the claims as understood by one of ordinary skill in the art. Such testimony is recognized by the Federal Circuit as proper. *See, e.g., Altiris, Inc. v. Symantec Corp.*, 318 F.3d 1363, 1371 (Fed. Cir. 2003) (commenting that live expert testimony at a claim construction hearing “serves the permissible purposes of aiding our understanding of the technology and in helping us view the patent through the eyes of the skilled artisan.”).

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Respectfully submitted,

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**CERTIFICATE OF SERVICE:** The undersigned certifies that on the 2nd day of November, 2011 the foregoing was filed electronically through the CM/ECF system, which caused all parties or counsel to be served by electronic means.

*/s/ Steven R. Pedersen*