

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

ESN LLC,

Plaintiff,

v.

CISCO SYSTEMS, INC., et al.,

Defendants.

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CIVIL ACTION NO. 5:08-CV-20

AMENDED ORDER

Due to the large number of patent cases pending on the Court’s docket, resulting in voluminous motion practice, the Court finds it necessary to implement procedures applying to future motions to be submitted in recently filed cases. This procedure is necessary to allow the Court to manage its docket in a timely fashion and this Order amends the one previously entered in this case.

The procedure is as follows:

Summary Judgment Motions: Prior to filing any summary judgment motion, the parties must submit letter briefs seeking permission to file the motion. The opening letter brief in each of those matters shall be no longer than five (5) pages and shall be filed with the Court no later than sixty (60) days before the deadline for filing summary judgment motions. Answering letter briefs in each of those matters shall be no longer than five (5) pages and filed with the Court no later than fourteen (14) days thereafter. Reply briefs in each of those matters shall be no longer than three (3) pages and filed with the Court no later than five (5) days thereafter. The Court may hold a hearing or telephone conference, if necessary, to hear arguments and to determine whether the filing of any motion will be permitted.

Motions to Strike Expert Testimony/Daubert Motions: Prior to filing any Motions to Strike or Daubert Motions, the parties must submit letter briefs seeking permission to file the motion. The opening letter brief in each of those matters shall be no longer than three (3) pages and shall be filed with the Court no later than sixty (60) days before the deadline for filing Motions to Strike or Daubert Motions. Answering letter briefs in each of those matters shall be no longer than three (3) pages and filed with the Court no later than fourteen (14) days thereafter. Reply briefs in each of those matters shall be no longer than two (2) pages and filed with the Court no later than five (5) days thereafter. The Court may hold a hearing or telephone conference, if necessary, to hear arguments and to determine whether the filing of any motion will be permitted.

Motions in Limine: Prior to filing any Motions *in Limine*, the parties must meet and confer and identify those *limine* items for which there is no opposition. The parties should then, when filing their respective motions *in limine*, clearly identify which *limine* items are unopposed and which are opposed. Leave of court, through submission of letter briefs, is **not** necessary prior to filing motions *in limine*.

Claim Construction Presentation: The parties shall prepare and present arguments at any future-scheduled claim-construction hearings on a claim term-by-claim term basis. The Court has found that presentation in this manner facilitates discussion as to the core disputes and promotes judicial efficiency, while presentation on a party-by-party basis is more difficult to follow and less efficient. Where it makes sense, the parties may group logically-related terms together. Any desired deviation from these presentation guidelines shall be submitted to the Court by motion.

For all of the above mentioned motions, any requests to submit letter briefs after the deadlines outlined above must show good cause. For guidance on how to submit letter briefs to the

Court, see the undersigned's Standing Order on this topic, which is available on the undersigned's web page.

IT IS SO ORDERED.

SIGNED this 1st day of October, 2009.

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE