

GENERAL ORDER No. 67
PROCEDURES FOR ASSIGNMENT OF PATENT CASES

A. Purpose

This Court, having been selected to participate in the Patent Pilot Project pursuant to Pub. L. No. 111-349, adopts the following procedures for the assignment of patent or plant variety protection cases which allege that a patent has been infringed or seek a declaratory judgment that a patent is not infringed, is invalid, or is unenforceable, and have been filed or transferred to this Court on or after January 1, 2012.

B. Procedures

1. Patent Pilot Judges are active and senior District Judges who have volunteered, or who in the future volunteer, to receive assignments of patent cases under the Patent Pilot Project. District Judges may volunteer to be Patent Pilot Judges at any time. The list of current Patent Pilot Judges will be maintained by the Clerk of Court and posted on the Court's website. See <http://cand.uscourts.gov/patentpilot>.

2. Patent Magistrate Judges are Magistrate Judges with a particular interest in presiding over patent cases. A Magistrate Judge may be designated as a Patent Magistrate Judge if he or she so requests, but will preside over only patent cases in which the parties have consented to a Magistrate Judge for all purposes. See 28 U.S.C. § 636(c). A Patent Magistrate Judge will not be counted as a Patent Pilot Judge for the purposes of meeting any of the requirements for the district to become or retain its status as a Patent Pilot Project district. However, the Court will strive to increase the number of patent cases assigned to Patent Magistrate Judges consistent with 28 U.S.C. § 636(c). Magistrate Judges may request to be designated as Patent Magistrate Judges at any time. The list of Patent Magistrate Judges will be maintained by the Clerk of Court and posted on the Court's website. See <http://cand.uscourts.gov/patentpilot>.

3. All newly filed patent cases will be initially assigned pursuant to General Order No. 44 and Civil Local Rules 3-2 and 3-3. However, each non-Patent Pilot Judge will be allowed to decline up to three (3) patent cases in one 12-month period.

4. When a non-Patent Pilot Judge declines a case, it will be randomly assigned to a Patent Pilot Judge.

5. The Patent Pilot Judge who receives the declined case will then have removed from his or her caseload the number of newly filed non-prisoner cases which have a total weight, using the weights prescribed by the Administrative Office of the Courts, roughly equal to, but not less than, the weight of the declined patent case assignment. Those removed cases will then be reassigned to the judge who declined the patent case assignment. If a judge relates a declined case away from the Patent Pilot Judge who has already given up an equivalent of newly filed non-prisoner cases, that Patent Pilot Judge will have a new ballot added to the patent wheel.

6. As reflected in General Order No. 44 and Civil Local Rules 3-2 and 3-3, it is the policy and practice of this Court to maintain an equitable system for a proportionate division of civil cases among the District Judges and Magistrate Judges. For the limited purpose of the Court's participation in the Patent Pilot Project, the venue-based assignment of civil cases will be suspended for the purpose of re-balancing the caseloads of judges who exercise the option to decline patent cases and the Patent Pilot Judges who receive those declined cases, as detailed above.

7. This General Order does not prohibit reassignment of patent cases necessitated by recusals or orders relating cases pursuant to Civil Local Rule 3-12 or Patent Local Rule 2-1.

8. The Patent Pilot Project will be reviewed annually and each time a District Judge volunteers as, or discontinues serving as, a Patent Pilot Judge. Revisions to these procedures will be made as necessary.

IT IS SO ORDERED.

FOR THE COURT:



PHYLLIS J. HAMILTON
CHIEF JUDGE

ADOPTED: NOVEMBER 10, 2011
AMENDED: FEBRUARY 17, 2015