

# EXHIBIT F



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## Gilstrap Eases Filing Of Patent Summary Judgment Motions

By **Ryan Davis**

Law360, New York (July 22, 2016, 7:15 PM ET) -- Federal Judge Rodney Gilstrap of the Eastern District of Texas has done away with his previous rule that litigants in patent cases must get his permission before filing a motion for summary judgment, court papers show.

Under an earlier docket control order, Judge Gilstrap required parties to submit five-page letter briefs requesting permission to file a motion seeking summary judgment. But a new order Wednesday simply requires parties to submit two copies of the summary judgment motion, with no requirement to seek permission.

The change will impact a large number of litigants since Judge Gilstrap hears by far the most patent cases of any judge in America. Last year, he was assigned 1,686 of the 5,285 total patent cases filed in the United States, or 32 percent, according to the legal analytics firm Lex Machina.

Michael Smith of Siebman Burg Phillips & Smith LLP in Marshall, Texas, who noted the new order on his blog, EDTexweblog, said that it is a "significant change."

"It will speed up the process a little bit," he said. "You don't have to go through the process of preparing a letter brief and waiting for a response."

The new order marks the second time in recent months that Judge Gilstrap eliminated a rule requiring letter briefing before filing motions in patent cases.

In June 2015, he instituted a rule requiring litigants to get permission before filing a motion seeking to invalidate a patent under the U.S. Supreme Court's Alice ruling. He rescinded the rule in November. He also recently eliminated a requirement for parties to meet and confer in person about discovery motions.

Judge Gilstrap has required letter briefs for summary judgment motions since he took the bench in 2011, and the rule had previously been used by other judges in the patent-heavy Eastern District.

"This rule change will eliminate the additional process that Judge Gilstrap used to essentially triage summary judgment motions and determine which ones deserve full briefing," Smith said.

The judges implemented the rule when the district's patent docket began to grow and the courts began getting a large number of summary judgment motions, Smith said. The judges granted permission to file motions in the majority of cases, he noted, and denied requests

"For the ones that would obviously not be successful, you didn't have to spend the money briefing them, and the court didn't have to take the time to rule on them," he said. "But it was a second layer of briefing you had to go through."

Some litigants file summary judgment motions for reasons other than thinking the motion will be successful, such as to educate the court about an issue. The judges decided they didn't want to spend time on motions like that, but they otherwise granted leave to file motions in most cases, Smith said.

He added that since the number of patent cases filed in the Eastern District of Texas has been decreasing in recent months, Judge Gilstrap may have felt letter briefing was no longer necessary.

To date, there have been 917 patent cases filed in the Eastern District of Texas in 2016, and 620 of them have been assigned to Judge Gilstrap. At this point in 2015, the district had seen 1,579 new patent case filings, 1,025 of them assigned to Judge Gilstrap.

--Editing by Jill Coffey.

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