



Patent Claim Construction and Markman Hearings (July 2015 Edition)

Thomas L. Creel

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Determining the proper construction of patent claims is the necessary prelude to any determination of whether those claims have been infringed, and this construction takes place in *a litigation system that is unique to patent cases*. **Patent Claim Construction and Markman Hearings** is a succinct guide to both claim construction and the special procedures that have evolved to accomplish such construction.

Since the decisions of the Federal Circuit and the Supreme Court in *Markman v. Westview Instruments*, it has been clear that patent claim construction is a question of law exclusively for the court, not something to be submitted to the jury. **Patent Claim Construction and Markman Hearings** explains the guiding principles that the courts use, the intrinsic and extrinsic evidence they consider, and the effect of prior constructions of the same claim. Since *rules* of construction are hard to come by, the book provides insight into the process by fully discussing how judges have decided upon particular claim constructions.

The law as it has developed after *Markman* makes it clear that there is no mandated or standard procedure to accomplish claim construction. The book explains the differing approaches among the courts, including the local rules in force in some courts, and how they affect case-management conferences, briefing, discovery, and the timing of the *Markman* hearing itself.

Then, to give you practical guidance as you prepare for the hearing, **Patent Claim Construction and Markman Hearings** helps you assess the evidence in support of the construction you seek, work with expert witnesses, and prepare claim charts and other materials that will aid and convince the court.

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