

# Best Practices for Claim Charts

By Erik Chmelar, JD, PhD, MBA, PE, ...



Claim charts are invaluable for safeguarding patent rights, especially during license negotiations and infringement litigations. A claim chart maps each element of a claim to a product or publication. This infographic describes best practices for creating claim charts. Go directly to the colored circles corresponding to a particular purpose, or start at Basic Principles and work towards Advanced Strategies.

- Determine essentiality of a standards-essential patent
- Negotiate a patent licensing agreement
- Invalidate a patent in an infringement defense
- Assert a patent against an infringer

Do not cut-and-paste dense paragraphs of evidence without identifying which specific facts map to various subparts of the claim element.

Phrases like “for example” and “including without limitation” fail to lock down the specific facts that satisfy a given claim element.

Although claim terms take their plain and ordinary meaning, it can be beneficial to include an assumed construction for terms that are likely to be disputed.

Do not infer that a product embodies a claim element based only on the product achieving the claimed result; the product may implement an alternate way to achieve that result.

If multiple products infringe and it is burdensome to chart each product, then chart the most significant products as exemplary infringing products and list the other products.

Beware of generalized or inaccurate information sometimes provided by marketing materials or third-party documents.

Clearly disclose whether the infringing entity is the maker, importer, seller, or user of the accused product or service, and disclose how that entity infringes.

