UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

Case No.: 10-CV-80369-RYSKAMP/VITUNAC

VTRAX TECHNOLOGIES
LICENSING, INC.,

Plaintiff,

v.

SIEMENS COMMUNICATIONS,
INC., et al.,

Defendants.
_____/

ORDER

THIS CAUSE comes before the Court on the parties' various briefs regarding claims construction and the *Markman* hearing held on March 7, 2011.

Federal Rule of Evidence 706 provides that "[t]he court may on its own motion or on the motion of any party enter an order to show cause why expert witnesses should not be appointed, and may request the parties to submit nominations." The rule further provides that "the court may appoint any expert witnesses agreed upon by the parties, and may appoint expert witnesses of its own selection."

After considering the parties' briefs, exhibits, expert reports, argument of counsel at the hearing, and the applicable law, the undersigned is unable to construe the terms in this case on its own. Recognizing the importance of the claims construction process, the Court believes a court-appointed expert witness would be of substantial assistance to the Court and believes that a

court-appointed expert witness will enable the Court to correctly construe the terms at issue. Accordingly, it is hereby

ORDERED AND ADJUDGED that within twenty days from the date of entry of this order, the parties shall show cause why an expert witness should not be appointed to assist the Court in the claims construction process. Prior to responding to this order, the parties shall confer in good faith regarding the appointment of an expert witness. In their response(s), the parties shall submit the name of a mutually agreeable expert witness. In the event the parties are unable to decide on a mutually agreeable expert witness, each side shall submit the names of three possible expert witnesses.[1]

DONE AND ORDERED in Chambers at West Palm Beach, Florida this 11 day of March, 2011.

KENNETH L. RYSKAMP
UNITED STATES DISTRICT JUDGE

[1] The Court, of course, may appoint an expert not suggested by the parties. *See* Fed. R. Evid. 706 ("The Court may appoint any expert witnesses agreed upon by the parties, and may appoint expert witness of its own selection.).