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UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

21 SEOUL SEMICONDUCTOR CO.,
 22 LTD., a Korean corporation, SEOUL
 23 VIOSYS CO., LTD., a Korean
 24 corporation, and THE REGENTS OF
 25 THE UNIVERSITY OF CALIFORNIA,

Plaintiffs,

v.

26 KMART CORPORATION, a Michigan
 27 corporation,

Defendant.

CASE NO. 2:16-cv-06782-SJO-JEM

**[PROPOSED] STIPULATED
 ORDER REGARDING
 E-DISCOVERY**

1 Upon the stipulation of the parties, the Court ORDERS as follows:

2 1. This Order supplements all other discovery rules and orders. It
3 streamlines Electronically Stored Information (“ESI”) production to promote a
4 “just, speedy, and inexpensive determination” of this action, as required by Federal
5 Rule of Civil Procedure 1.

6 2. This Order may be modified for good cause. The parties shall jointly
7 submit any proposed modifications within 30 days after the Federal Rule of Civil
8 Procedure 16 conference. If the parties cannot resolve their disagreements
9 regarding these modifications, the parties shall submit their competing proposals
10 and a summary of their dispute.

11 3. Costs will be shifted for disproportionate ESI production requests
12 pursuant to Federal Rule of Civil Procedure 26. Likewise, a party’s nonresponsive
13 or dilatory discovery tactics will be cost-shifting considerations.

14 4. A party’s meaningful compliance with this Order and efforts to
15 promote efficiency and reduce costs will be considered in cost-shifting
16 determinations.

17 5. The following requirements shall apply to the production of documents
18 in electronic format in response to production requests under Federal Rules of Civil
19 Procedure 34 and 45:

- 20 a. Documents shall be produced as single page TIFF or PDF,
21 except for Excel spreadsheets, PowerPoint documents, and
22 exception documents which shall be produced in their native
23 format with a placeholder TIFF image or PDF that says
24 “Produced as Native File,” the Bates number, and file name;
- 25 b. Emails shall be kept with their attachments to the extent
26 possible;
- 27 c. All productions will be accompanied with load files;
- 28 d. Extracted text shall be provided for all documents, at the

1 document level, to the extent possible; and
2 e. The following metadata shall be preserved and provided for all
3 produced ESI, to the extent it exists and can be captured:
4 Custodian, File Path, Email Subject, From, To, CC, BCC, Date
5 Sent, Time Sent, Date Received, Time Received, Filename,
6 Author, Date Created, Date Modified, MD5 Hash, File Size, File
7 Extension, Control Number Begin, Control Number End,
8 Attachment Range, Attachment Begin, and Attachment End (or
9 the equivalent thereof).

10 6. General ESI production requests under Federal Rules of Civil
11 Procedure 34 and 45 shall not include email or other forms of electronic
12 correspondence (collectively “email”). To obtain email parties must propound
13 specific email production requests.

14 7. Email production requests shall only be propounded for specific issues,
15 rather than general discovery of a product or business and good cause must be
16 shown for email discovery.

17 8. Email production requests shall be phased to occur after the parties
18 have exchanged initial disclosures and basic documentation about the patents, the
19 prior art, the accused instrumentalities, and the relevant finances. While this
20 provision does not require the production of such information, the Court encourages
21 prompt and early production of this information to promote efficient and
22 economical streamlining of the case.

23 9. Email production requests shall identify the custodian, search terms,
24 and time frame. The parties shall cooperate to identify the proper custodians,
25 proper search terms and proper timeframe.

26 10. Plaintiffs and Defendant shall limit their email production requests to a
27 total of five custodians for each side for all such requests, excluding any requests to
28 third parties. The parties may jointly agree to modify this limit without the Court’s

1 leave. The Court shall consider contested requests for up to five additional
2 custodians, upon showing a distinct need based on the size, complexity, and issues
3 of this specific case. Should Plaintiffs or Defendant serve email production
4 requests for additional custodians beyond the limits agreed to by the parties or
5 granted by the Court pursuant to this paragraph, the requesting party shall bear all
6 reasonable costs caused by such additional discovery.

7 11. Each side shall limit its email production requests to a total of five
8 search terms per custodian. The parties may jointly agree to modify this limit
9 without the Court's leave. The Court shall consider contested requests for up to five
10 additional search terms per custodian, upon showing a distinct need based on the
11 size, complexity, and issues of this specific case. The search terms shall be
12 narrowly tailored to particular issues. Indiscriminate terms, such as the producing
13 company's name or its product name, are inappropriate unless combined with
14 narrowing search criteria that sufficiently reduce the risk of overproduction. A
15 conjunctive combination of multiple words or phrases (e.g., "computer" and
16 "system") narrows the search and shall count as a single search term. A disjunctive
17 combination of multiple words or phrases (e.g., "computer" or "system") broadens
18 the search, and thus each word or phrase shall count as a separate search term unless
19 they are variants of the same word. Use of narrowing search criteria (e.g., "and,"
20 "but not," "w/x") is encouraged to limit the production and shall be considered
21 when determining whether to shift costs for disproportionate discovery. Should a
22 party serve email production requests with search terms beyond the limits agreed to
23 by the parties or granted by the Court pursuant to this paragraph, the requesting
24 party shall bear all reasonable costs caused by such additional discovery. If a party
25 determines that particular search term(s) would result in an excessive number of
26 responsive documents being identified, the parties shall confer about narrowing
27 these search term(s) and the producing party shall have the right to seek that the
28 requesting party bear all reasonable costs of production if an acceptable agreement

1 to narrow the search term(s) cannot be reached.

2 12. The receiving party shall not use ESI that the producing party asserts is
3 attorney-client privileged or work product protected to challenge the privilege or
4 protection.

5 13. Pursuant to Federal Rule of Evidence 502(d), the production of a
6 privileged or work-product-protected document, whether inadvertent or otherwise,
7 is not a waiver in the pending case or in any other federal or state proceeding. For
8 example, the mere production of privileged or work-product-protected documents in
9 this case as part of a mass production is not itself a waiver in this case or in any
10 other federal or state proceeding. The terms of the Rule 502(d) Order, upon entry
11 by the Court, shall apply equally to ESI.

12 14. The mere production of ESI in a litigation as part of a mass production
13 shall not itself constitute a waiver for any purpose.

14

15 IT IS SO STIPULATED.

16 Dated: January 27, 2017

17

/s/ Bradley A. Hyde

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Dated: January 27, 2017

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SIGNATURE ATTESTATION

Pursuant to Civil L.R. 5-4.3.4(a)(2)(i), I hereby attest that all other signatories listed, and on whose behalf the filing is submitted, concur in this document's content and have authorized the filing of this document with the use of their electronic signature.

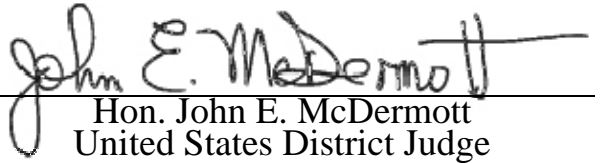
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and SEOUL VIOSYS CO., LTD.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: February 1, 2017



Hon. John E. McDermott
United States District Judge