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14

15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA

17 NETWORK VIDEO TECHNOLOGIES, INC.,)

18 Plaintiff,)

19 v.)

20 NITEK INTERNATIONAL, LLC and DOES 1-)
10,)

21 Defendants.)
22)
23)
24)
25)
26)
27)
28)

Case No. CO8-2208-MHP

**PROPOSED ORDER GRANTING
NITEK INTERNATIONAL, LLC'S
REQUEST FOR LEAVE TO FILE A
MOTION FOR RECONSIDERATION**

DENYING

1
2 **ORDER**

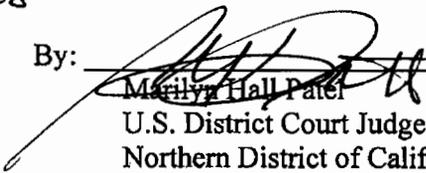
3 Having considered Defendant NITEK International, LLC's Request for Leave to File a
4 Motion for Reconsideration of Memorandum & Order Denying NITEK's Motion to Dismiss
5 Complaint for Lack of Subject Matter Jurisdiction Under F.R.C.P. 12(B)(1), and finding that
6 ~~since the October 20 Order, NITEK, through its attorneys, has stipulated to NVT that NVT has~~
7 ~~not infringed the '149 patent under 35 U.S.C. §§271(a, b, and c) and is presently not infringing~~
8 ~~the '149 patent under 35 U.S.C. §§ 271 (a, b, and c); and finding that NITEK has further~~
9 ~~stipulated that the products that NVT is selling, including those listed in the proposed license,~~
10 ~~have substantial non-infringing uses:~~ *despite this court's order and*
11 *plaintiff having dismissed its*

12 *appeal in accordance with that order and after that date **
IT IS HEREBY ORDERED THAT leave is GRANTED for Defendant NITEK to file a
13 **DENIED.**
14 Motion for Reconsideration, with the Motion for Reconsideration including a stipulation from
15 NITEK that, as NVT presently sells the products listed in the Proposed License, or any other
16 products that have been sold by NVT, none of those products infringe any of the claims of the
17 '149 patent under 35 U.S.C. §§ 271 (a, b, and c) and that the products that NVT is selling,
18 ~~including those listed in the proposed license, have substantial non-infringing uses.~~

19 IT IS FURTHER ORDERED that the ~~Motion for Reconsideration with NITEK's~~
20 ~~stipulation be filed within 10 days from the date of this Order.~~ *parties shall*

21 *appear for a case management conference on*
IT IS SO ORDERED. *February 2, 2009 at 3:00 p.m. just*
22 *Case management Statement shall be filed on or*
23 *before January 26, 2008*

24 Date: 12/15/08

By: 

Marilyn Hall Patel
U.S. District Court Judge
Northern District of California

27 ** defendant not to be required to file a motion for*
28 *frivolous appeal in the Federal Circuit,*