

1 Ian N. Feinberg (SBN 88324)
 ifeinberg@mayerbrown.com
 2 Joseph Melnik (SBN 255601)
 jmelnik@mayerbrown.com
 3 Jack Fitzgerald (admitted *pro hac vice*)
 jfitzgerald@mayerbrown.com
 4 MAYER, BROWN, ROWE & MAW LLP
 Two Palo Alto Square, Suite 300
 5 3000 El Camino Real
 Palo Alto, CA 94306-2112
 6 Telephone: (650) 331-2000
 Facsimile: (650) 331-2060

7 Charles L. Roberts (admitted *pro hac vice*)
 croberts@wnlaw.com
 8 C.J. Veverka (admitted *pro hac vice*)
 cveverka@wnlaw.com
 9 David R. Todd (admitted *pro hac vice*)
 dtodd@wnlaw.com
 10 WORKMAN | NYDEGGER A PROFESSIONAL CORPORATION
 60 East South Temple, Suite 1000
 11 Salt Lake City, Utah 84111
 Telephone: (801) 533-9800
 12 Facsimile: (801) 328-1707

13 *Attorneys for Plaintiff, Finisar Corporation*

14
 15 **UNITED STATES DISTRICT COURT**
 16 **NORTHERN DISTRICT OF CALIFORNIA**

17 FINISAR CORPORATION, a Delaware
 18 corporation,
 19
 Plaintiff,
 20 v.
 21 JDS UNIPHASE CORPORATION, a Delaware
 corporation,

Civil Action No. C 08-03388 MMC

**STIPULATION AND [PROPOSED]
 ORDER ALLOWING PLAINTIFF TO
 AMEND COMPLAINT ; SETTING
 DEADLINE TO FILE FIRST AMENDED
 COMPLAINT**

22 Grounds for Stipulation

23
 24 Plaintiff Finisar Corporation (“Finisar”), pursuant to the provisions of Fed. R. Civ. Proc.
 25 15(a)(2), desires to amend its complaint. Defendant JDS Uniphase Corporation has stipulated to
 26 the amendment. A copy of Finisar’s First Amended Complaint is submitted herewith as Exhibit

27 A. The proposed amendments are relatively minor and consist of:

- 28 1) A clarification to Finisar’s Sixth Cause of Action (and a corresponding amend-

1 ment to the prayer for relief) to specify that Finisar's request that JDSU be precluded by the
2 terms of section 4.2 of the November 2003 Agreement from terminating the license granted
3 under section 2.2 of the November 2003 Agreement is limited to any failure on Finisar's part to
4 pay royalties under the November 2003 Agreement; and

5 2) Elimination of Finisar's claim for attorneys' fees.

6 This amendment is being sought in response to the parties' discussions to reduce issues in
7 this case and to avoid unnecessary motion practice. As such, Defendant JDS Uniphase
8 Corporation stipulates to this motion. Finisar submits that this amendment will have no effect on
9 the proposed schedule submitted by the parties in their proposed Case Management Statement.

10 October 9, 2008

WORKMAN NYDEGGER

11
12 By: /s/ Charles L. Roberts
13 Charles L. Roberts
14 Attorneys for Plaintiff
FINISAR CORPORATION

15 October 13, 2008

SWEENEY, MASON, WILSON &
BOSOMWORTH, PC

16
17
18 By: 
19 Kurt E. Wilson
20 Attorney for Defendant
JDS UNIPHASE CORP.

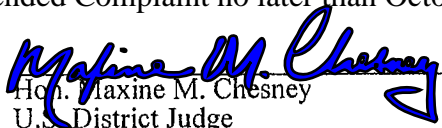
21 **[proposed] ORDER**

22 PURSUANT TO STIPULATION, IT IS SO ORDERED.

23 ~~Dated:~~ _____

24 Plaintiff shall file its First Amended Complaint no later than October 27,
25 2008.

26 Dated: October 22, 2008


27 Hon. Maxine M. Chesney
28 U.S. District Judge