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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VOLTERRA SEMICONDUCTOR
CORPORATION,

Case No. C-08-05129 JCS

Plaintiff,

v.

PRIMARION, INC., ET AL.,

Defendants.

ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTION TO ENLARGE TIME TO FILE THEIR OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION AND SUMMARY JUDGMENT AND TO EXTEND OTHER RELATED DATES PURSUANT TO CIVIL LOCAL RULE 6-3 [Docket No. 184]

On August 4, 2009, Defendants filed a Motion to Enlarge Time to File Their Opposition to Plaintiff's Motion for Preliminary Injunction and Summary Judgment and to Extend Other Related Dates Pursuant to Civil Local Rule 6-3 ("Motion"). In the Motion, Defendants request that: 1) the deadline for Defendants to file their opposition to Plaintiff's motions for preliminary injunction and summary judgment be extended from August 7 to August 14; 2) the deadline for Plaintiffs' reply papers be extended from August 21 to August 28; and 3) the hearing on the preliminary injunction and summary judgment motions be moved from September 18, 2009 to September 25, 2009. Defendants assert that the change in the briefing schedule is necessary in order to allow them to conduct the deposition of lead inventor David Burstein and complete the deposition of Volterra founder David Lidsky before filing their opposition papers. They request a change in the hearing date on the basis that their lead counsel, Terry McMahon, is scheduled to be in trial on another matter on September 18.

Plaintiff opposes the request in its entirety. First, it argues that the deadline for filing Defendants' opposition should not be extended because Plaintiff has scheduled depositions of two of Defendants' experts, as well as a 30(b)(6) deposition of Infineon, in reliance on the current briefing schedule. Further, Plaintiff asserts, Defendants' failure to depose Mr. Burstein and complete Mr. Lidsky's deposition before the current deadline for filing Defendants' opposition is a result of

1 Defendants' own lack of diligence. If the Court grants Defendants' request for additional time,
2 Plaintiff argues, it should require that Defendants submit their opposition papers no later than
3 August 11 at noon, with the reply papers due on August 28.

4 Second, Plaintiff argues that the hearing date should not be changed, asserting that the delay
5 will prejudice Plaintiff because some of its key customers will be deciding in early October whether
6 to use Volterra's flip chip integrated power product or Defendants' allegedly infringing product.
7 Plaintiff notes that Defendants have lead counsel in addition to Mr. McMahon who could appear on
8 their behalf at the September 18 hearing.

9 Having considered the arguments of the parties, and good cause shown, the Court GRANTS
10 in part and DENIES in part Defendants' Motion, as follows:

- 11 1. The deposition of Andrew Burstein shall occur on **August 7, 2009**, as scheduled.
- 12 2. David Lidsky shall be made available to Defendants for an additional day of
13 deposition on or before **August 10, 2009**, to complete Mr. Lidsky's 30(b)(6)
14 deposition and conduct his individual deposition.
- 15 3. Defendants' opposition to Plaintiff's preliminary injunction and summary judgment
16 motions shall be filed on **August 12, 2009**.
- 17 4. The 30(b)(6) deposition of Infineon shall occur on **August 13, 2009**, as scheduled.
- 18 5. The depositions of Defendants' experts, Drs. Baker and Malackowski, shall be
19 conducted no later than **August 19, 2009**.
- 20 6. Plaintiff's reply papers on the preliminary injunction and summary judgment motions
21 shall be filed on **August 26, 2009**.
- 22 7. The hearing on the preliminary injunction and summary judgment motions, currently
23 scheduled for September 18, 2009, is continued to **September 25, 2009** at 9:30 a.m.

24 IT IS SO ORDERED.

25
26 Dated: August 5, 2009

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28 _____
JOSEPH C. SPERO
United States Magistrate Judge