

1 SAMUEL K. LU (SBN 171969)  
 2 NATHAN N. LOWENSTEIN (SBN  
 241067)  
 3 BRIAN D. KRECHMAN (SBN 254418)  
 IRELL & MANELLA LLP  
 4 1800 Avenue of the Stars, Suite 900  
 Los Angeles, California 90067-4276  
 Telephone: (310) 277-1010  
 5 Facsimile: (310) 203-7199  
 E-mail: slu@irell.com  
 6 E-mail: nlowenstein@irell.com  
 E-mail: bkrechman@irell.com

7 Attorneys for Plaintiff  
 8 PLANTRONICS, INC.

JAMES POOLEY (SBN 58041)  
 MICHAEL A. JACOBS (SBN 111664)  
 SUSAN V. VAUGHAN (SBN 223576)  
 JONATHAN L. MCFARLAND (SBN 247601)  
 CHRISTOPHER L. ROBINSON (SBN 260778)  
 MORRISON & FOERSTER LLP  
 755 Page Mill Road  
 Palo Alto, California 94304-1018  
 Telephone: (650) 813-5600  
 Facsimile: (650) 494-0792  
 E-mail: jpooley@mofo.com  
 E-mail: mjacobs@mofo.com  
 E-mail: svaughan@mofo.com  
 E-mail: jmcfarland@mofo.com  
 E-mail: christopherrobinson@mofo.com

9 DAVID SCHNAPF (SBN 100199)  
 TOWNSEND & TOWNSEND & CREW LLP  
 Two Embarcadero Center, 8th Floor  
 San Francisco, California 94111-3834  
 Telephone: (415) 576-0200  
 Facsimile: (415) 576-0300  
 E-mail: dschnapf@townsend.com

13 Attorneys for Defendants  
 14 ALIPH, INC. and ALIPHCOM, INC.

15 UNITED STATES DISTRICT COURT  
 16 NORTHERN DISTRICT OF CALIFORNIA  
 17 SAN FRANCISCO DIVISION

18 PLANTRONICS, INC.

19 Plaintiff

20 v.

21 ALIPH, INC. and ALIPHCOM, INC.,

22 Defendants.

Case No. C 09-01714 BZ

**SECOND AMENDED JOINT CASE  
 MANAGEMENT STATEMENT AND  
 [PROPOSED] ORDER**

1           Whereas on November 9, 2009, Defendants Aliph, Inc. and Aliphcom (collectively  
2 “Aliph”) filed in the United States Patent and Trademark Office an ex parte application for  
3 reexamination of United States Patent and Trademark Office of United States Patent No.  
4 5,712,453,

5           Whereas on November 11, 2009, Aliph filed a Motion to Stay the subject action pending  
6 outcome of the reexamination request and any reexamination proceedings (collectively, “the  
7 reexamination”) (Docket No. 77),

8           Whereas on November 19, Plaintiff Plantronics, Inc., filed a Statement of Non-Opinion  
9 in regard to Aliph’s Motion to Stay (Docket No. 79),

10           Whereas the parties agree and stipulate that discovery in the subject action should be  
11 stayed pending outcome of the reexamination, and

12           Whereas the parties agree that all pending dates in the Court’s Case Management Order  
13 should be stayed pending outcome of the reexamination,

14           Therefore the parties stipulate to and jointly file the following proposed amendment to the  
15 Case Management Statement, with accompanying Proposed Order:

16		
17	Patent L.R. 3-1 Preliminary Infringement Contentions and Patent L.R. 3-2 Document Production	September 14, 2009
18	Patent L.R. 3-3 Preliminary Invalidity Contentions and Patent L.R. 3-4 Document Production	November 2, 2009
19		
20	Patent L.R. 4-1 Exchange of Proposed Terms	Stayed pending outcome of reexamination
21	Patent L.R. 4-2 Exchange of Preliminary Claim Constructions	Stayed pending outcome of reexamination
22		
23	Patent L.R. 4-3 Joint Claim Construction and Prehearing Statement	Stayed pending outcome of reexamination
24	Patent L.R. 4-4 Close of Claim Construction Discovery	Stayed pending outcome of reexamination
25		
26	Patent L.R. 4-5(a) Opening Claim Construction Brief	Stayed pending outcome of reexamination
27		
28		

1	Patent L.R. 4-5(b) Responsive Claim Construction Brief	Stayed pending outcome of reexamination
2		
3	Patent L.R. 4-5(c) Reply Claim Construction Brief	Stayed pending outcome of reexamination
4	Claim Construction Hearing	Stayed pending outcome of reexamination
5		
6	Last Day to Amend Pleadings (except for amending Answer to add inequitable conduct defense)	Stayed pending outcome of reexamination
7	Patent L.R. 3-7 Advice of Counsel Production	Stayed pending outcome of reexamination
8		
9	Last Day for Aliph to Amend Answer to Include Inequitable Conduct Defense	Stayed pending outcome of reexamination
10	Fact Discovery Cut-off	Stayed pending outcome of reexamination
11		
12	Disclosure of Identity of Experts	Stayed pending outcome of reexamination
13		
14	Written Expert Reports Due	Stayed pending outcome of reexamination
15	Rebuttal Expert Reports Due	Stayed pending outcome of reexamination
16		
17	Expert Discovery Cut-off	Stayed pending outcome of reexamination
18	Status Conference to Discuss Dispositive Motions	Stayed pending outcome of reexamination
19		
20	Deadline for Filing Dispositive Motions	Stayed pending outcome of reexamination
21	Pretrial Conference	Stayed pending outcome of reexamination
22		
23	TRIAL	Stayed pending outcome of reexamination
24		

25 The parties respectfully request the Court order this proposed amendment to the Case  
26 Management Statement.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: November 19, 2009

IRELL & MANELLA LLP

By: /s/ Samuel K. Lu

SAMUEL K. LU  
Attorneys for Plaintiff  
PLANTRONICS, INC.

Dated: November 19, 2009

MORRISON & FOERSTER LLP  
TOWNSEND & TOWNSEND & CREW LLP

By: /s/ Susan V. Vaughan

SUSAN V. VAUGHAN  
Attorneys for Defendants  
ALIPH, INC. and ALIPHCOM, INC.

**~~PROPOSED~~ CASE MANAGEMENT ORDER**

The Amended Case Management Statement and Proposed Order is hereby adopted by the Court as the Case Management Order for the case. The parties shall comply with this Order.

IT IS SO ORDERED. **Plantronics shall promptly inform the Court of the PTO's decision.**

Dated: November 20, 2009

  
Hon. Bernard Zimmerman  
United States Magistrate Judge

**ATTESTATION OF CONCURRENCE**

Pursuant to General Order No. 45, Section X(B), I, Susan V. Vaughan, attest that concurrence in the filing of this document has been obtained from each of the other signatories in lieu of their signature(s) on the document.

By: /s/ Susan V. Vaughan  
SUSAN V. VAUGHAN

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATION OF SERVICE**

I hereby certify that on November 19, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses on file with the Clerk of Court.

By: /s/ Susan V. Vaughan  
SUSAN V. VAUGHAN