

1 Daniel Johnson, Jr. (State Bar No. 57409)  
 Michael J. Lyons (State Bar No. 202284)  
 2 Dion M. Bregman (State Bar No. 208393)  
 Ahren C. Hsu-Hoffman (State Bar No. 250469)  
 3 MORGAN, LEWIS & BOCKIUS LLP  
 2 Palo Alto Square  
 4 3000 El Camino Real, Suite 700  
 Palo Alto, CA 94306-2122  
 5 Tel: 650.843.4000  
 Fax: 650.843.4001  
 6 E-mail: djjohnson@morganlewis.com  
 E-mail: mlyons@morganlewis.com  
 7 E-mail: dbregman@morganlewis.com  
 E-mail: ahsu-hoffman@morganlewis.com

8 Attorneys for Plaintiff  
 9 FINISAR CORPORATION

THOMAS J. FRIEL, JR. (SBN 80065)  
 COOLEY LLP  
 101 California Street, 5th Floor  
 San Francisco, CA 94111-5800  
 Tel.: 415.693.2000  
 Fax: 415.693.2222  
 E-mail: tfriel@cooley.com

MARK T. SMITH (SBN 260845)  
 COOLEY LLP  
 Five Palo Alto Square  
 3000 El Camino Real  
 Palo Alto, CA 94306  
 Tel.: 650.843.5122  
 Fax: 650.857.0663  
 E-mail: msmith@cooley.com

SARAH J. GUSKE (SBN 232467)  
 WAYNE O. STACY (pro hac vice)  
 COOLEY LLP  
 380 Interlocken Crescent, Suite 900  
 Broomfield, CO 80021-8023  
 Tel.: 720.566.5000  
 Fax: 720.566.4099  
 E-mail: sguske@cooley.com  
 E-mail: wstacy@cooley.com

Attorneys for Defendants  
 OPLINK COMMUNICATIONS, INC.,  
 and OPTICAL COMMUNICATION  
 PRODUCTS, INC

17 UNITED STATES DISTRICT COURT  
 18 NORTHERN DISTRICT OF CALIFORNIA  
 19 SAN FRANCISCO DIVISION

20 FINISAR CORPORATION,  
 21 Plaintiff,  
 22  
 v.  
 23 OPLINK COMMUNICATIONS INC.,  
 24 OPTICAL COMMUNICATION  
 PRODUCTS, INC.,  
 25 Defendants.  
 26

CASE NO. 3:10-cv-05617 RS

**STIPULATION AND [PROPOSED]  
 ORDER TO AMEND CLAIM  
 CONSTRUCTION SCHEDULE UNDER  
 CIV. L.R. 6-2**

1 Plaintiff FINISAR CORPORATION (“Finisar”) and Defendants OPLINK  
2 COMMUNICATIONS INC., OPTICAL COMMUNICATION PRODUCTS, INC. (“Oplink”), by  
3 and through their respective counsel, hereby submit, pursuant to Civil L.R. 6-1(b), 6-2 and 7-12,  
4 this stipulated and agreed request that the Court delay the Claim Construction Briefing Schedule  
5 by two weeks.

6 WHEREAS the parties participated in Court-ordered mediation before Mr. Wulff on  
7 November 30, 2011;

8 WHEREAS the parties are participating in good faith in continuing, active negotiations  
9 towards a settlement;

10 WHEREAS the parties believe in good faith that this litigation may be settled within the  
11 next two weeks;

12 WHEREAS the Court issued its Amended Joint Schedule and Order (Docket No. 54) on  
13 August 2, 2011 (the “Scheduling Order”);

14 WHEREAS the Scheduling Order requires Finisar to file its Patent L.R. 4-5(a) Opening  
15 Claim Construction Brief on November 30, 2011;

16 WHEREAS the Scheduling Order requires Oplink to file its Patent L.R. 4-5(b)  
17 Responsive Claim Construction Brief on December 14, 2011;

18 WHEREAS the Scheduling Order requires Finisar to file its Patent L.R. 4-5(c) Reply  
19 Claim Construction Brief on December 21, 2011;

20 WHEREAS the Scheduling Order set a tutorial for the Court on January 18, 2012;

21 WHEREAS the Scheduling Order set the Claim Construction Hearing on January 20,  
22 2012;

23 WHEREAS the requested time modification will have no effect on any other scheduled  
24 dates;

25 WHEREAS the parties agree that delaying the claim construction briefing schedule by  
26 about two weeks may prevent unnecessary expense, promote judicial economy, and increase the  
27 likelihood of an extra-judicial settlement in this litigation;

28

1 **IT IS HEREBY STIPULATED AND AGREED:**

2 Subject to the Court's approval, the Scheduling Order shall be amended as follows:

3

|  |                              |
|--|------------------------------|
| 4 Patent L.R. 4-5(a) Opening Claim Construction Brief    | December 14, 2011            |
| 5 Patent L.R. 4-5(b) Responsive Claim Construction Brief | January 4, 2012              |
| 6 Patent L.R. 4-5(c) Reply Claim Construction Brief      | January 11, 2012             |
| 7 Tutorial   | January 18, 2012 (unchanged) |
| 8 Claim Construction Hearing                             | January 20, 2012 (unchanged) |

9  
10 Dated: November 30, 2011

RESPECTFULLY SUBMITTED,  
MORGAN, LEWIS & BOCKIUS LLP

11  
12  
13 By /s/ Michael J. Lyons  
14 Michael J. Lyons  
15 Attorneys for Plaintiff  
FINISAR CORPORATION

16  
17 I, Michael J. Lyons, am the ECF User whose ID and password are being used to file this  
18 STIPULATION AND [PROPOSED] ORDER. In compliance with General Order 45, X.B., I  
19 hereby attest that the signatory identified below has concurred in this filing.

20 Dated: November 30, 2011

COOLEY LLP

21  
22 By /s/ Sarah J. Guske  
23 Sarah J. Guske  
24 Attorneys for Defendant  
OPLINK COMMUNICATIONS INC.,  
25 OPTICAL COMMUNICATION  
PRODUCTS, INC.,

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

**ORDER**

**PURSUANT TO STIPULATION, IT IS SO ORDERED:**

That the Stipulation and [~~Proposed~~] Order To Amend Claim Construction Schedule Under Civ. L.R. 6-2 is hereby adopted by the Court. The parties shall comply with this Order.

Dated: December 1, 2011



---

HON. RICHARD SEEBORG  
UNITED STATES DISTRICT JUDGE