

1 KILPATRICK TOWNSEND & STOCKTON LLP
 2 A. JAMES ISBESTER (State Bar No. 129820)
 3 SARA B. GIARDINA (State Bar No. 278954)
 4 Two Embarcadero Center, 8th Floor
 5 San Francisco, CA 94111
 Telephone: (415) 576-0200
 Facsimile: (415) 576-0300
 Email: jisbester@kilpatricktownsend.com
 sgiardina@kilpatricktownsend.com

6 Attorneys for Plaintiff
 ACCO BRANDS USA LLC

7 PILLSBURY WINTHROP SHAW PITTMAN LLP
 8 COLIN T. KEMP (State Bar No. 215408)
 9 Four Embarcadero Center, 22nd Floor
 San Francisco, CA 94111
 Telephone: (415) 983-1000
 10 Facsimile: (415) 983-1200
 Email: colin.kemp@pillsburylaw.com

11 Attorneys for Defendant
 12 COMARCO WIRELESS TECHNOLOGIES, INC.

13 [Additional Counsel for the Parties identified on last page]

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

ACCO BRANDS USA LLC,
 Plaintiff,
 v.
 COMARCO WIRELESS TECHNOLOGIES,
 INC.,
 Defendant.

Case No. C11-4378 RS

**STIPULATION AND REQUEST FOR
 ORDER MODIFYING SCHEDULING
 ORDER; ~~PROPOSED~~ ORDER
 MODIFYING SCHEDULE ORDER**

1 **STIPULATION AND REQUEST FOR ORDER MODIFYING SCHEDULING ORDER**

2 Plaintiff ACCO Brands USA LLC and Defendant Comarco Wireless Technologies, Inc.,
3 through their undersigned counsel, stipulate and respectfully request as follows:

4 1. WHEREAS, on April 3, 2012, the Court entered an Amended Case Management
5 Scheduling Order (Dkt. Entry No. 28) (the “Order”), in which the Court set forth the case
6 schedule;

7 2. WHEREAS, on April 16, 2013, the Court entered an order vacating the then-
8 pending April 18, 2013 Further Case Management Conference and, furthermore, setting a Further
9 Case Management Conference for August 15, 2013 (*see* Dkt. Entry No. 51);

10 3. WHEREAS, while the parties have engaged in settlement discussions throughout
11 the course of this action, such discussions resumed in earnest in April and May of this year and
12 have involved the devoted attention of key party executives and their respective lead trial counsel;

13 4. WHEREAS, on June 10, 2013, because of the aforesaid good faith settlement
14 discussions and the desire to focus resources on those efforts, the parties respectfully submitted a
15 stipulation in which the parties requested that the Court modify two dates in the case schedule (*see*
16 Dkt. Entry No. 52);¹

17 5. WHEREAS, also on June 10, 2013, the Court granted the parties’ stipulation (*see*
18 Dkt. Entry No. 53);

19 6. WHEREAS, the parties’ have continued their good faith settlement discussions
20 and, moreover, are now negotiating a term sheet that establishes a framework for the full
21 settlement of this action;

22 7. WHEREAS, the parties respectfully believe that continued focus on their
23 settlement efforts and term sheet will jeopardize adequate preparations (*e.g.*, completion of fact
24 discovery, expert discovery, preparing dispositive motions) for the January 2014 trial set by the
25

26 ¹ Specifically, the parties respectfully requested that that Court continue (i) the
27 September 26, 2013 deadline for hearing dispositive motions to October 17, 2013 and (ii) the
28 November 21, 2013 deadline for hearing pretrial motions to December 12, 2013. The parties’
June 10 stipulation did not seek to (and the Court’s June 10 order did not) continue or otherwise
modify the January 27, 2014 trial date.



1 Order;²

2 8. WHEREAS, the parties do not wish to delay the trial of this action, but do wish to
3 be given the opportunity to continue to focus on trying to settle it while not jeopardizing trial
4 preparations (if such were to become necessary);

5 9. WHEREAS, the parties believe that, in all events, they will know no later than
6 August 8, 2013 (*i.e.*, the date by which they must file their Case Management Conference
7 Statement in anticipation of the August 15, 2013 Further Case Management Conference) whether
8 a settlement will be reached;

9 10. ACCORDINGLY, the parties STIPULATE and respectfully request that the Court
10 vacate the current case schedule entirely and require the parties to (i) immediately notify the Court
11 if a settlement is reached or (ii) if a settlement is not reached, to include in their forthcoming
12 August 8, 2013 Case Management Conference Statement an accelerated case schedule that would
13 require the trial of this action to commence no later than six months after the originally set
14 January 27, 2014 trial date (so long as such date is acceptable to the Court).

15 DATED: June 27, 2013

Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON LLP

18 By: /s/Scott E. Kolassa
19 SCOTT E. KOLASSA

20 Attorneys for Plaintiff
21 ACCO BRANDS USA LLC

22
23
24
25
26 ² While the parties recognize it is possible to devote resources to settlement efforts, on the
27 one hand, and pre-trial preparations, on the other hand, at the same time (*i.e.*, company personnel
28 and outside counsel devoted to settlement efforts, while still others are devoted to pre-trial
litigation matters), they respectfully believe that such “dual tracking” would waste not only the
resources of the parties but also those of the Court (*e.g.*, evaluating and ruling on potentially
unnecessary dispositive and pretrial motions).



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: June 27, 2013

PILLSBURY WINTHROP SHAW PITTMAN LLP

By: /s/Colin T. Kemp
COLIN T. KEMP

Attorneys for Defendant
COMARCO WIRELESS TECHNOLOGIES, INC.

GENERAL ORDER 45 ATTESTATION

In compliance with General Order 45, X.B., I hereby attest that Mr. Kemp has concurred in this filing.

Dated: June 27, 2013

By: /s/Scott E. Kolassa
SCOTT E. KOLASSA

Attorneys for Plaintiff
ACCO BRANDS USA LLC



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

[PROPOSED] ORDER MODIFYING SCHEDULING ORDER

Pursuant to the foregoing stipulation, and good cause appearing therefore, it is ORDERED

THAT:

1. The current case schedule, set forth in Docket Entry No. 28 (as modified in part by Docket Entry No. 53), is hereby VACATED;

2. The parties are ORDERED to immediately notify the Court of any settlement reached in this action;

3. If no settlement is reached before August 8, 2013, then the parties are ORDERED to include in their Case Management Conference Statement (to be filed no later than August 8, 2013) an accelerated case schedule that will include the commencement of the trial of this action no later than six months after the originally set January 27, 2014 trial date.

IT IS SO ORDERED.

DATED: 6/27/13


United States District Judge Richard Seeborg



1 **ADDITIONAL COUNSEL**

2 ACCO BRANDS CORPORATION
3 Michael V. Ward (State Bar No. 145751)
4 300 Tower Parkway
5 Lincolnshire, IL 60069
6 Telephone: (847) 484-3460
7 Email: Michael.Ward@ACCO.com

8 Attorneys for Plaintiff
9 ACCO BRANDS USA LLC

10 PILLSBURY WINTHROP SHAW PITTMAN LLP
11 EVAN FINKEL (State Bar No. 100763)
12 ROGER R. WISE (State Bar No. 128262)
13 MARK R. KENDRICK (State Bar No. 217198)
14 725 South Figueroa Street, Suite 2800
15 Los Angeles, CA 90017-5406
16 Telephone: (213) 488-7100
17 Facsimile: (213) 629-1033
18 Email: evan.finkel@pillsburylaw.com
19 roger.wise@pillsburylaw.com
20 mark.kendrick@pillsburylaw.com

21 Attorneys for Defendant
22 COMARCO WIRELESS TECHNOLOGIES, INC.

23
24
25
26
27
28
65526447V.1

