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 Attorneys for Defendant-Counterclaimant
 View, Inc.

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

13 **SAGE ELECTROCHROMICS, INC.,**)
 14)
 15 Plaintiff-Counterclaim Defendant,)
 16)
 17 vs.)
 18)
 19 **VIEW, INC.,**)
 20)
 21 Defendant-Counterclaimant.)

No. C-12-6441 (JST)

STIPULATION AND ~~PROPOSED~~
ORDER GRANTING VIEW, INC.'S
REQUEST TO AMEND
INFRINGEMENT CONTENTIONS
PURSUANT TO PATENT L.R. 3-6

19 **LEYBOLD OPTICS, GMBH,**)
 20)
 21 Intervenor-Plaintiff,)
 22)
 23 vs.)
 24)
 25 **VIEW, INC.,**)
 26)
 27 Defendant.)

Wilmer Cutler Pickering Hale and Dorr LLP
 950 Page Mill Road
 Palo Alto, CA 94304

1 Defendant-Counterclaimant View, Inc. (“View”), Plaintiff-Counterclaim Defendant
2 SAGE Electrochromics, Inc. (“SAGE”), and Intervenor-Plaintiff Leybold Optics, GmbH
3 (“Leybold”), through their undersigned counsel, hereby agree and stipulate as follows:

4 WHEREAS, View served its Patent L.R. 3-1 Infringement Contentions on June 12, 2013
5 pursuant to the Court’s Scheduling Order (ECF No. 57);

6 WHEREAS, on June 6, 2014, View notified SAGE and Leybold of its intent to seek the
7 Court’s leave to amend its Infringement Contentions with respect to U.S. Pat. No. 5,831,851
8 (“’851 patent”), asserted by View against SAGE in this litigation, and WHEREAS, concurrent
9 with the foregoing notification, View provided SAGE and Leybold with copies of its proposed
10 Amended Infringement Contentions for the ’851 patent;

11 WHEREAS, SAGE and Leybold do not oppose View’s request to amend its Infringement
12 Contentions with respect to the ’851 patent in the manner represented in View’s June 6, 2014
13 correspondence;

14 WHEREAS, View respectfully submits that good cause exists to amend its Infringement
15 Contentions pursuant to Patent L.R. 3-6 because:

16 (a) View’s amended contentions rely on information ascertained from Leybold’s
17 proprietary documents and source code recently produced in this case pertaining to SAGE’s
18 “High Volume Manufacturing” (HVM) facility;

19 (b) Specifically, the source code pertaining to the HVM facility is alleged by SAGE
20 to be in the exclusive possession of Leybold, and was first made available to View for inspection
21 in discovery responses served by Leybold in this litigation on March 3, 2014;

22 (c) View inspected the source code for the first time on May 6, 2014, one month prior
23 to View’s June 6, 2014 correspondence to SAGE and Leybold attaching its proposed Amended
24 Infringement Contentions; and

25 (d) View’s proposed amendment will not prejudice SAGE or Leybold. To the
26 contrary, View’s amended contentions provide additional detail to SAGE and Leybold regarding
27 View’s infringement theories for the ’851 patent, thereby furthering the notice objective of the
28 patent local rules.

1 WHEREAS, for the foregoing reasons, View further submits that it acted diligently in
2 seeking this amendment since none of these above bases for amendment were previously
3 available to View outside the confidential discovery and disclosure mechanisms of this case. See
4 Patent L.R. 3-6(c) (providing as a basis for amendment the “[r]ecent discovery of nonpublic
5 information about the Accused Instrumentality which was not discovered, despite diligent
6 efforts, before the service of the Infringement Contentions”);

7 WHEREAS, SAGE, Leybold and View have agreed that, to avoid burdening the Court,
8 and pursuant to the Court’s May 29, 2013 Order (ECF No. 54), the parties will stipulate to allow
9 View to amend its Infringement Contentions for the ’851 patent, subject to the Court’s approval.

10 IT IS HEREBY STIPULATED AND AGREED, by and between View, SAGE, and
11 Leybold, subject to the Court’s approval, that View is hereby given leave to amend its Patent
12 L.R. 3-1 Infringement Contentions for the ’851 patent.

Respectfully submitted,

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14
15 DATED: June 12, 2014

By: /s/ Keith Slenkovich
Keith Slenkovich

Attorneys for View, Inc.

16
17
18 DATED: June 12, 2014

By: /s/ Wendy J. Ray
Wendy J. Ray

Attorneys for SAGE Electrochromics, Inc.

19
20
21
22 DATED: June 12, 2014

By: /s/ Tawfik Goma
Tawfik Goma

Attorneys for Leybold Optics, GmbH

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SIGNATURE ATTESTATION

I hereby attest that concurrence in the filing of this document has been obtained from Plaintiff-Counterclaim Defendant SAGE Electrochromics, Inc. and Intervenor-Plaintiff Leybold Optics, GmbH, and I have on file records to support this concurrence for subsequent production for the Court if so ordered or for inspection upon request. I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed this 12th day of June, 2014, at Palo Alto, California.

/s/ Keith Slenkovich
Keith Slenkovich

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~~PROPOSED~~ ORDER

Good cause having been shown, IT IS HEREBY ORDERED that Defendant-Counterclaimant View, Inc.'s request to amend its Patent L.R. 3-1 Infringement Contentions is GRANTED. View is hereby ordered to serve copies of its Amended Infringement Contentions on counsel for SAGE and Leybold.

Dated: June 13, 2014

