

1 Hon. Charles A. Legge (Ret.)  
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 7 Special Master

7 UNITED STATES DISTRICT COURT  
 8 NORTHERN DISTRICT OF CALIFORNIA  
 9 OAKLAND DIVISION

11 TESSERA, INC.,  
 12 vs.  
 13 ADVANCED MICRO DEVICES, INC., et al.

CASE NO. 4:05-CV-04063-CW  
 CASE NO. 4:12-CV-00692-CW

15 TESSERA, INC.,  
 16 vs.  
 17 MOTOROLA, INC., et al.

**REPORT AND RECOMMENDATION  
 REGARDING SCHEDULE AND  
 TRIAL DATE  
 AND  
 INTERIM SCHEDULING ORDER**

19 AND RELATED CASES

21 To the Honorable Claudia Wilken, United States District Judge: The special master  
 22 respectfully submits the following Report and Recommendation.

23 On March 14, 2013, the special master heard motions by Tessera to extend certain  
 24 scheduled dates. At the conclusion of the hearing, the parties were given time to meet and confer  
 25 regarding scheduling, and they proposed a revised schedule to the special master on March 22.

26 Their proposed schedule includes postponing the present trial date from April 7, 2014 to  
 27 August 25, 2014, as well as making other included changes in the schedule. It is important to  
 28 note that their proposed schedule is agreed upon by all of the parties to these cases except

1 Qualcomm. The agreement of some of the defendants is conditional upon the special master  
2 recommending some change to the present schedule, but the special master does so.

3 The special master concludes that some modifications to the present schedule are  
4 necessary, because of: (1) an extremely large volume of discovery that was produced on the last  
5 day for the completion of discovery; (2) late and voluminous changes to certain discovery  
6 information previously submitted; (3) the necessity for adequate time for the experts' testing and  
7 work between the opening reports and the rebuttal reports; and (4) extreme time pressure on the  
8 court-appointed expert.

9 For the Court's convenience, the calendar of the current schedule and the proposed  
10 changes are set forth in Exhibit A to this Report and Recommendation.

11 Because the proposed schedule would include changes in the trial date and other hearings  
12 before Your Honor, the special master has no authority to order such changes. And the special  
13 master does not know what impact the changes might have on Your Honor's overall calendar.

14 The special master does recommend the proposed schedule set forth in Exhibit B, but of  
15 course subject to Your Honor's concurrence. If Your Honor does approve, the following Interim  
16 Order is moot.

17  
18 **INTERIM ORDER**

19 Because other scheduled dates, primarily the preparation of expert reports, are imminent,  
20 and because Your Honor may take some time before ruling upon the above recommendation or  
21 may deny the recommendation, Tessera requests that some interim dates, not impacting the trial  
22 date or court hearings, should be adjusted now for the benefit of the parties and their experts.  
23 Those proposed interim changes are opposed by defendants, primarily because of some  
24 shortening their time for the preparation of rebuttal expert reports. That concern has been  
25 reduced in the order below. And the recently submitted volume of discovery and discovery  
26 changes are such that the special master concludes that additional time should, in the interests of  
27 justice, be granted for the assimilation of that information. The special master's signature below  
28 is therefore an order adopting the following interim schedule, since it does not involve changing

1 the trial or other scheduled court dates. This order is of course subject to review by Your Honor.

2 1. The deadline for Tessera's opening infringement and damages reports, including  
3 invalidity reports, shall be due on **May 8, 2013**.

4 2. Rebuttal expert reports for all parties shall be due on **August 1, 2013**.

5 3. The deadline for completing party expert depositions and *Markman* discovery shall  
6 be **August 16, 2013**.

7 4. The deadline for the court-appointed expert report shall be **September 16, 2013**.

8 5. The deadline for deposing the court-appointed expert shall be **September 23, 2013**.

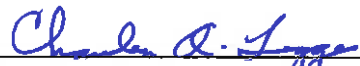
9 6. The expert discovery cutoff shall be **September 27, 2013**.

10 7. The opening *Markman* and SJ briefs shall be due on September 30, 2013.

11 All other dates in the current schedule remain unaffected.

12 This Interim Order is subject to further changes as a result of any order entered by the  
13 Honorable Claudia Wilken in response to the above Report and Recommendation.

14  
15  
16 Dated: March 25, 2013

  
\_\_\_\_\_  
Hon. Charles A. Legge (Ret.),  
Special Master

17  
18  
19 The report and recommendation of the special master is:

20  
21 Approved and Adopted

22  
23  
24 \_\_\_\_\_ March 28, 2013

  
\_\_\_\_\_  
Hon. Claudia Wilken, U.S.D.J.

**EXHIBIT A**

|  | <b>Current Schedule</b> | <b>Joint Proposal</b> |
|--|-------------------------|-----------------------|
| Opening expert reports   | 4/15/13                 | 5/31/13               |
| Rebuttal expert reports  | 7/15/13                 | 8/30/13               |
| Complete party expert depositions and <i>Markman</i> discovery | 8/5/13                  | 10/1/13               |
| Court-appointed expert report due                              | 8/31/13                 | 12/20/13              |
| Court-appointed expert deposition deadline                     | 9/14/13                 | 1/17/14               |
| Expert discovery cutoff  | 9/20/13                 | 1/17/14               |
| Opening <i>Markman</i> and SJ briefs due                       | 9/23/13                 | 2/3/14                |
| <i>Markman</i> and SJ hearing                                  | 12/5/13                 | 4/24/14               |
| <b>Trial</b>   | <b>4/7/14</b>           | <b>8/25/14</b>        |

**EXHIBIT B**

| <b>Event</b>  | <b>Date</b>       |
|---|-------------------|
| Opening Party Expert Reports  | May 31, 2013      |
| Tessera to Submit Trial Plan  | July 1, 2013      |
| Rebuttal Party Expert Reports   | August 30, 2013   |
| Defendants to Move for Severance and Submit Alternate Trial Plan            | September 3, 2013 |
| Complete Party Expert Depositions and L.R. 4-4 Claim Construction Discovery | October 1, 2013   |
| Court-Appointed Expert Report   | December 20, 2013 |
| Complete Deposition of Court-Appointed Expert                               | January 17, 2014  |
| Expert Discovery Cut-Off  | January 17, 2014  |
| Tessera's Opening Brief on Claim Construction and Summary Judgment          | February 3, 2014  |
| Defendants' Responsive Briefs on Claim Construction and Summary Judgment    | February 26, 2014 |
| Tessera's Reply Brief on Claim Construction and Summary Judgment            | March 12, 2014    |
| Defendants' Reply Briefs on Claim Construction and Summary Judgment         | March 26, 2014    |
| Court-Appointed Expert to Provide Advisory Opinion on Claim Construction    | April 11, 2014    |
| Hearing on Claim Construction and Summary Judgment Motions                  | April 24, 2014    |
| Final Pretrial Conference   | July 30, 2014     |
| Jury Trial Begins   | August 25, 2014   |