

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ZIONS BANCORPORATION, No. C 10-3481 CW  
Plaintiff,

v.

U.S. ETHERNET INNOVATIONS, LLC,  
Defendant.

U.S. ETHERNET INNOVATIONS, LLC, No. C 10-3724 CW  
Plaintiff,

v.

ACER, INC.; ACER AMERICA CORPORATION; APPLE, INC.; ASUS COMPUTER INTERNATIONAL; ASUSTEK COMPUTER, INC.; DELL, INC.; FUJITSU, LTD.; FUJITSU AMERICA, INC.; GATEWAY, INC.; HEWLETT PACKARD CO.; SONY CORPORATION; SONY CORPORATION OF AMERICA; SONY ELECTRONICS INC.; TOSHIBA CORPORATION; TOSHIBA AMERICA, INC.; and TOSHIBA AMERICA INFORMATION SYSTEMS, INC.,

Defendants,

INTEL CORPORATION; NVIDIA CORPORATION; MARVELL SEMICONDUCTOR, INC.; ATHEROS COMMUNICATIONS, INC.; and BROADCOM CORPORATION,

Intervenors.

United States District Court  
For the Northern District of California

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1 U.S. ETHERNET INNOVATIONS, LLC,

No. C 10-5254 CW

2 Plaintiff,

3 v.

4 AT&T MOBILITY LLC; BARNES &  
5 NOBLE, INC.; CLAIRE'S BOUTIQUES,  
6 INC.; J. C. PENNEY COMPANY, INC.;  
7 SALLY BEAUTY HOLDINGS, INC.; ANN  
8 TAYLOR STORES CORPORATION; ANN  
9 TAYLOR RETAIL, INC.; HARLEY-  
10 DAVIDSON, INC.; HARLEY-DAVIDSON  
11 MOTOR COMPANY, INC.; KIRKLAND'S  
12 INC.; KIRKLAND'S STORES, INC.;  
13 MACY'S, INC.; MACY'S RETAIL  
14 HOLDINGS, INC.; MACY'S WEST  
15 STORES, INC.; NEW YORK & COMPANY,  
16 INC.; LERNER NEW YORK, INC.;  
17 RADIOSHACK CORPORATION; RENT-A-  
18 CENTER, INC.; and THE DRESS BARN,  
19 INC.,

20 Defendants.

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22 U.S. ETHERNET INNOVATIONS, LLC,

No. C 13-2262 CW

23 Plaintiff,

ORDER APPOINTING  
TECHNICAL ADVISOR

24 v.

25 NETGEAR, INC.

26 Defendant.

27 \_\_\_\_\_/  
28 AND ALL RELATED CLAIMS,  
COUNTERCLAIMS AND THIRD-PARTY  
CLAIMS

29 The Court previously issued two orders apprising the parties  
30 of its intent to appoint a Technical Advisor, Kwan Chan. In the  
31 orders, the Court directed parties who wished to object to the  
32 appointment to file an objection with Magistrate Judge Beeler by  
33 particular deadlines. The deadlines have now passed and

1 Magistrate Judge Beeler has notified the Court that no objections  
2 were received.

3 Accordingly, the Court appoints Mr. Chan as a Technical  
4 Advisor for these related cases under the following terms:

5 1. Any advice provided to the Court by Mr. Chan will not be  
6 based on any extra-record information.

7 2. To the extent that the Court may ask Mr. Chan to provide  
8 a formal written report on technical advice concerning the case, a  
9 copy of the formal written report prepared by Mr. Chan shall be  
10 provided to the parties. However, the Court reserves the right to  
11 have informal written and verbal communications with Mr. Chan,  
12 including written summaries and explanations of his advice to the  
13 Court, which are not included in any formal reports. Mr. Chan may  
14 attend all case-related court proceedings.

15 3. Mr. Chan may review any pleadings, motions or documents  
16 submitted to the Court.

17 4. As a Technical Advisor, Mr. Chan will make no written  
18 findings of fact and will not supply any evidence to the Court.  
19 Thus, Mr. Chan will be outside the purview of "expert witnesses"  
20 under Fed. R. Evid. 706. As such, the provisions in Rule 706 for  
21 depositions and questioning of expert witnesses will be  
22 inapplicable to Mr. Chan. See Reilly, 863 F.2d at 155-56.

23 5. Mr. Chan will have no contact with any of the parties or  
24 their counsel except for billing purposes.

25 6. Each party shall bear the cost of the Technical Advisor  
26 on a per capita basis, payable in advance. During his initial  
27 appointment, a trust account was established to cover the  
28 anticipated fees and costs, which may still have funds.

1           Within fifteen days of his re-appointment, Mr. Chan shall  
2 report to the Court on the state of his fees and expenses and make  
3 a recommendation to the Court as to whether the trust account  
4 needs additional deposits from the parties, including any new  
5 parties who have not yet made an initial contribution to the  
6 account.

7           Mr. Chan shall issue statements to the parties and draw from  
8 the trust account every fifteen (15) days for his performance of  
9 the appointment. When needed, he shall advise the Court if the  
10 trust account needs additional deposits from the parties as the  
11 case progresses. Mr. Chan will bill at the rate of \$450.00 per  
12 hour.

13           All matters pertaining to fees of Mr. Chan are referred to  
14 the discovery Magistrate Judge.

15           7. Within one week of the date of this Order, Mr. Chan  
16 shall file a declaration that he will adhere to the terms of his  
17 appointment.

18           The Clerk shall immediately add Mr. Chan to the docket.

19           IT IS SO ORDERED.

20  
21 Dated: 7/8/2013

  
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CLAUDIA WILKEN  
United States District Judge