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Attorneys for Defendant
 FREESCALE SEMICONDUCTOR, INC.

19
 20 **UNITED STATES DISTRICT COURT**
 21 **NORTHERN DISTRICT OF CALIFORNIA**
 22 **OAKLAND DIVISION**

23 MEDIATEK INC.
 Plaintiff,
 24
 v.
 25 FREESCALE SEMICONDUCTOR, INC.
 26 Defendant.

Civil Action No. 4:11-cv-05341 (YGR)
[PROPOSED] ORDER REGARDING
SUBSTITUTION OF WITNESSES
 Hon. Yvonne Gonzalez Rogers

1 WHEREAS, certain witnesses that the parties had originally identified on the Joint
2 Witness List (Dkt. No. 416) have become unavailable for trial. Specifically, Joern Soerensen
3 (MediaTek employee and inventor on two of the patents in suit) suffered a stroke in February
4 2014, just before the originally-scheduled trial date, and in March 2014, Charles Narad
5 (MediaTek expert witness for two of the patents in suit) became aware of the reemergence of
6 cancer that had previously been in remission, necessitating intensive treatment;

7 WHEREAS, the parties have endeavored to find an acceptable agreement that would
8 allow for the substitution of witnesses in view of these circumstances;

9 WHEREAS, the Court has suggested that the parties consider stipulating to the
10 conditions by which the parties may address the circumstances that have caused certain
11 witnesses to become unavailable for trial (Dkt. No. 620);

12 THEREFORE,

13 Plaintiff MediaTek Inc. (MediaTek) and Defendant Freescale Semiconductor, Inc.
14 (Freescale) hereby agree and jointly stipulate as follows:

- 15 1. The Court will provide the following explanation relating to the unavailability of Mr.
16 Soerensen and Mr. Narad during its preliminary instructions:

17 “During the trial, you may hear the names of two individuals who have
18 become unable to participate in this trial for medical reasons.

19 One is Mr. Joern Soerensen, who is an inventor for two of the patents
20 involved in this case. Before Mr. Soerensen’s medical conditions developed, Mr.
21 Soerensen’s deposition was taken by videotape. You may hear and see portions
22 of Mr. Soerensen’s videotaped deposition during the trial.

23 The other person who is not able to participate in this trial for medical
24 reasons is Mr. Charles Narad, who is an expert witness for two of the patents
25 involved in this case. Prior to the medical conditions that prevent Mr. Narad from
26 attending the trial developed, Mr. Narad prepared a report addressing some of the
27 technical issues in the case.”

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2. When introducing their respective videotaped designations from Mr. Soerensen's deposition, the parties' respective counsel will be allowed to remind the jury that Mr. Soerensen is one of the individuals mentioned during the Court's preliminary instruction as being unavailable because of medical conditions, explain that before Mr. Soerensen's medical conditions developed Mr. Soerensen's deposition was taken by videotape, and explain that the deposition segments they will be seeing are from that deposition. Counsel shall not dwell on Mr. Soerensen's illness or unavailability, nor attempt to procure sympathy on account of Mr. Soerensen.
 3. Neither party will suggest in opening statements, through questioning or through argument that Mr. Soerensen or Mr. Narad chose to not appear at trial, and/or that their absence was intentional.
 4. Neither party will attempt to procure sympathy from the jury on account of the illnesses of either Mr. Soerensen or Mr. Narad, nor in any way suggest that this litigation is the reason for the illnesses of either Mr. Soerensen or Mr. Narad.

16 Dated: August 27, 2014

Respectfully submitted,

MEDIATEK INC.

By their attorneys,

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Attorneys for Plaintiff MEDIATEK INC.

Dated: August 27, 2014

Respectfully submitted,
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By its attorneys,

/s/

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: August 28, 2014


United States District Judge
YVONNE GONZALEZ ROGERS