

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

3 TESSERA, INC.,

No. C 12-692 CW

4                                    Plaintiff,

ORDER ADOPTING  
SPECIAL MASTER'S  
REPORT AND  
RECOMMENDATION

5                                    v.

REGARDING  
DEFENDANTS'  
MOTIONS TO STRIKE  
(Docket Nos. 155,  
175)

6 MOTOROLA, INC.; QUALCOMM, INC.;  
7 FREESCALE SEMICONDUCTOR, INC.;  
and ATI TECHNOLOGIES, ULC,

8                                    Defendants.

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11                                    Defendants Qualcomm, Inc. and Freescale Semiconductor, Inc.  
12 move to strike Plaintiff Tessera, Inc.'s amended disclosure of  
13 asserted claims and infringement contentions. Docket Nos. 155,  
14 175.<sup>1</sup> The Special Master has filed a report, recommending that  
15 the motions be denied. Docket No. 1026 in Case No. 05-4063.  
16 Defendants object to the Special Master's report and  
17 recommendation. Having considered the papers filed by the  
18 parties, the Court OVERRULES Defendants' objections and ADOPTS the  
19 Special Master's report and recommendation.

20                                    Defendants contend that Tessera's infringement contentions  
21 are deficient because Tessera does not "identity how the  
22 displacement between the terminal and the contact (chip)  
23 incorporates what Tessera contends is the claimed movement."  
24 Objections, 2. However, as the Special Master points out, this  
25 goes beyond what Patent Local Rule 3-1(c) requires. This rule

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27                                    <sup>1</sup> Defendant ATI Technologies ULC joined Freescale's motion to  
28 strike. After that joinder was filed, the Court granted Tessera  
and ATI's stipulation to dismiss the claims and counterclaims  
between them. Docket No. 269.

1 mandates that the party claiming patent infringement serve a  
2 "chart identifying specifically where each limitation of each  
3 asserted claim is found within each Accused Instrumentality."  
4 Patent Local Rule 3-1(c). Tessera has done this, which is enough  
5 for the purposes of its infringement contentions. See, e.g.,  
6 Renasas Tech. Corp. v. Nanya Tech. Corp., 2005 WL 2000926, at \*7  
7 (N.D. Cal.) ("neither the Local Rules or the court's order require  
8 Renesas to provide values for the voltages and amplitude levels it  
9 identifies. It must only identify where these elements are found  
10 in the accused products--which it has done.").

11 Similarly, to the extent that Qualcomm argues that Tessera  
12 should have been required to disclose "Tessera's bases for  
13 alleging Qualcomm's knowledge of the Patents-in-Suit" under Patent  
14 Local Rule 3-1(d), Qualcomm seeks information that goes beyond the  
15 requirements of the local rules. Objections, 4. Local Rule  
16 3-1(d) requires,

17 For each claim which is alleged to have been indirectly  
18 infringed, an identification of any direct infringement  
19 and a description of the acts of the alleged indirect  
20 infringer that contribute to or are inducing that direct  
21 infringement. Insofar as alleged direct infringement is  
22 based on joint acts of multiple parties, the role of  
23 each such party in the direct infringement must be  
24 described.

25 Thus, this rule does not require the party alleging indirect  
26 infringement to make allegations related to the knowledge of the  
27 accused infringer or identify why it believes the accused  
28 infringer knows about the patents-in-suit.

Finally, Defendants argue that the Special Master erred in  
finding that Tessera's use of representative diagrams and claim  
charts in its infringement contentions was proper. They contend

1 that Tessera's submission "does not, without more, satisfy  
2 Tessera's obligation to separately identify and provide claim  
3 charts for each Accused Instrumentality." Objections, 5.  
4 However, as the Special Master stated, "[r]epresentative models  
5 may be used where there is commonality among the elements."  
6 Report and Recommendation, 3. The Special Master then went on to  
7 explain how Tessera demonstrated that commonality existed among  
8 the accused products in the fundamental characteristics at issue  
9 here. Defendants have not argued or shown that this was  
10 incorrect.

11 Accordingly, the Court OVERRULES Defendants' objections and  
12 ADOPTS the Special Master's recommendation to deny their motions  
13 to strike. This Order terminates Docket Nos. 155 and 175.

14 IT IS SO ORDERED.

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16 Dated: 8/13/2013

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19 CLAUDIA WILKEN  
20 United States District Judge  
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