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 12  
 13 **UNITED STATES DISTRICT COURT**  
 14 **NORTHERN DISTRICT OF CALIFORNIA**  
 15 **SAN JOSE DIVISION**

16 AERIELLE TECHNOLOGIES, INC.,

17 Plaintiff,

18 v.

19 BELKIN INTERNATIONAL, INC.; BEST  
 BUY CO., INC.; BESTBUY.COM, LLC;  
 20 BEST BUY STORES, L.P.; and  
 21 RADIOSHACK CORPORATION,

22 Defendants.

CASE NO. C 10-01301 LHK (HRL)

Hon. Lucy H. Koh

**STIPULATION AND**  
~~**PROPOSED**~~ **ORDER**  
**MODIFYING DEADLINE DATE**  
**FOR PRIVATE MEDIATION**  
**ALTERNATIVE DISPUTE**  
**RESOLUTION**

1 **BACKGROUND AND GOOD CAUSE**

2 On November 3, 2010, the Court held a Case Management Conference and  
3 referred the parties to private mediation. *See* November 3, 2010 Case Management  
4 Order [dkt. #55]. At the Case Management Conference, the Court set a 120 days for  
5 the parties to complete private mediation. *Id.*

6 Following the parties' Subsequent Joint Case Management Statement filed  
7 March 2, 2011, [dkt. #62], and the Case Management Conference held on March 9,  
8 2011, the Court Ordered counsel for the parties to complete their initial efforts at  
9 settlement via a teleconference by April 1, 2011, and to complete their face-to-face  
10 efforts at informal settlement by April 15, 2011. *See* March 9, 2011 Case  
11 Management and Minute Order [dkt. #66]. The Court also ordered the parties to file  
12 their stipulated ADR selection by March 18, 2011 with a 90-day deadline. *Id.*

13 Pursuant to the Court's March 9, 2011 Case Management Order, on March  
14 18, the parties submitted their ADR selection, electing to participate in a private  
15 one-day mediation by June 3, 2011. *See* March 21, 2011 Stipulation and Order  
16 Selecting ADR Process [dkt. #76]. On March 18, 2011, the parties also exchanged  
17 certain information to facilitate settlement discussions. In addition, the parties,  
18 through their counsel, held settlement talks via telephone prior to the April 1, 2011,  
19 deadline and held face-to-face settlement discussions by the April 15, 2001,  
20 deadline.

21 Following the parties informal settlement efforts, it has become clear that the  
22 they remain quite far apart in their respective settlement positions. Given the  
23 respective settlement positions of each of the parties, counsel for the parties have  
24 concluded that conducting mediation prior to the present June 3, 2011, deadline  
25 would be unproductive, and could even be counterproductive, thus needlessly  
26 causing the parties to incur significant expense. In this regard, the parties have  
27 previously agreed that due to the geographic diversity of their locations, the  
28 mediation will be held in Chicago. Thus, attending the mediation will involve

1 considerable expense and inconvenience for the parties. Therefore, having now  
2 engaged in the preliminary settlement discussions, counsel for the parties believe  
3 that a mediation at which both counsel and party representatives attend will have the  
4 best chance for success if held after the Markman hearing has been held and  
5 Markman rulings have been issued.

6 In this regard, on April 4, 2011, the parties submitted their Joint Claim  
7 Construction Statement and Prehearing Statement (“JCCS”), which contains the  
8 parties’ agreed upon and disputed constructions. *See* JCCS [dkt. #77]. A two-hour  
9 technology tutorial and a three hour-claim construction hearing are scheduled for  
10 June 27 and June 29, 2011, respectively. *See* March 9, 2011, Case Management and  
11 Minute Order [dkt. #66]. In the JCCS, the parties identified ten disputed terms, and  
12 as is apparent from that document, hold divergent views regarding the appropriate  
13 construction for these terms. *See* JCCS at 1 and Exhibit B [dkt. #77].

14 Given the parties’ currently-held respective views on appropriate settlement  
15 value and appropriate claim constructions, both of which are at this time quite  
16 disparate, counsel for the parties believe that the issues will be substantially better  
17 framed, and settlement discussions will have a better chance of success, after the  
18 Court issues its Claim Construction Order following the claim construction hearing  
19 on June 29, 2011.

20 Accordingly, the parties respectfully request that the current June 3, 2011  
21 deadline for completion of private mediation be continued and reset for August 12,  
22 2011. A proposed Order to that effect is being currently filed.

1 **STIPULATION and ~~PROPOSED~~ ORDER**

2 In light of what counsel for the parties believe to be good cause, IT IS  
3 HEREBY STIPULATED by and between the parties hereto, by their respective  
4 undersigned counsel of record herein, that the current June 3, 2011 deadline for the  
5 parties to complete a private one-day mediation shall be continued to August 12,  
6 2011.

7  
8 DATED: May 9, 2011

DICKSTEIN SHAPIRO LLP

9  
10 By: /s/Robert W. Dickerson  
11 Robert W. Dickerson  
12 Yasser El-Gamal  
13 David A. Randall  
14 Jeffrey A. Miller  
15 Attorneys for Defendants


16 DATED: May 9, 2011

DLA PIPER LLP (US)

17 By: /s/Christine Corbett  
18 Mark Fowler  
19 Brent Yamashita  
20 Christine Corbett  
21 Carrie Williamson  
22 Chang Kim  
23 Attorneys for Plaintiff

24 PURSUANT TO STIPULATION, AND GOOD CAUSE HAVING BEEN  
25 SHOWN, IT IS SO ORDERED.

26 DATED: May 10, 2011

27   
28 LUCY H. KOH  
United States District Judge