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16
 17 **UNITED STATES DISTRICT COURT**
FOR THE NORTHERN DISTRICT OF CALIFORNIA
 18 **SAN JOSE DIVISION**

19 FUJITSU LIMITED,
 20 Plaintiff,

v.

21 BELKIN INTERNATIONAL, INC., BELKIN,
 22 INC., D-LINK CORPORATION, D-LINK
 SYSTEMS, INC., NETGEAR, INC., ZYXEL
 23 COMMUNICATIONS CORPORATION, and
 ZYXEL COMMUNICATIONS, INC.,
 24 Defendants.

Case No. 10-cv-03972-LHK (PSG)

**JOINT STIPULATION AND [PROPOSED]
 ORDER RE: ADMISSIBILITY OF TRIAL
 EXHIBITS**

Trial: November 26, 2012
 Time: 9:00 a.m.
 Location: Courtroom 8, 4th Floor
 Before: The Honorable Lucy H. Koh

25 **AND RELATED COUNTERCLAIMS**
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 28

1 Pursuant to the Court's instructions at the November 1, 2012 Pretrial Conference,
2 Plaintiff Fujitsu Limited ("Fujitsu") and Defendants Belkin International, Inc., Belkin, Inc.,
3 D-Link Corporation, D-Link Systems, Inc., and NETGEAR, Inc. ("Defendants") have
4 conferred regarding the admissibility of certain trial exhibits, and

5 IT IS HEREBY STIPULATED, by and between Fujitsu and Defendants, that the trial
6 exhibits listed in Attachment A to this Stipulation shall be treated as follows:

7 Table 1: The "PTX" exhibits listed in Table 1 may be admitted into evidence
8 without restriction.¹

9 Table 2: The "DTX" exhibits listed in Table 2 may be admitted into evidence
10 without restriction.

11 Table 3: The "DTX" exhibits listed in Table 3 may be admitted into evidence
12 only to show the state of the art at the time of the invention, but not used for
13 purposes of proving invalidity. Pursuant to the Court's Pretrial Conference Order
14 (Dkt. No. 396) and the November 20, 2012 Transcript of Proceedings, a limiting
15 instruction is required for the exhibits listed in Table 3.

16 Table 4: The "DTX" exhibits listed in Table 4 may be admitted into evidence
17 for the limited purpose of lack of willfulness and active inducement, but shall not be
18 considered for purposes of proving invalidity. Pursuant to the Court's Pretrial
19 Conference Order (Dkt. No. 396) and the November 20, 2012 Transcript of
20 Proceedings, Dr. Mihran cannot opine on these exhibits and a limiting instruction is
21 required for the exhibits listed in Table 4.

22 Table 5: The "DTX" exhibits listed in Table 5 may be admitted into evidence
23 (i) to show the state of the art at the time of the invention; and (ii) for the limited
24 purpose of disproving willfulness and active inducement. These exhibits shall not
25

26 ¹ Defendants note that PTX8, PTX12, PTX16, PTX19, PTX21, PTX33, PTX39, PTX42, PTX48,
27 PTX54, PTX80, PTX85, PTX89, PTX93, and PTX100 are physical exhibits and related packaging that
28 they have not yet had an opportunity to inspect. As such, Defendants reserve their rights to object
to these samples if they are not what they purport to be, or if they have been damaged or modified.

1 be used as a prior art reference for purposes of proving invalidity. Pursuant to the
2 Court's Pretrial Conference Order (Dkt. No. 396) and the November 20, 2012
3 Transcript of Proceedings, a limiting instruction is required for the exhibits listed in
4 Table 5.

5 Table 6: Fujitsu agrees that it will not dispute the authenticity of the "DTX"
6 exhibits listed in Table 6. Fujitsu reserves any other objections as to these exhibits.

7 Table 7: Fujitsu contends that the "DTX" exhibits listed in Table 7 are barred
8 from the case pursuant to the Court's Pretrial Conference Order (Dkt. No. 396) and
9 the November 20, 2012 Transcript of Proceedings (Tr. at 49:5 – 54:25) because
10 they were not disclosed in Defendants' invalidity contentions and/or not disclosed
11 in Defendants' expert report regarding invalidity. Defendants contend that these
12 documents may be admitted as "state of the art" under the Court's order with an
13 appropriate limiting instruction. Fujitsu does not assert any other objections to the
14 exhibits listed in Table 7.

15 Table 8: Fujitsu contends that the exhibits listed in Table 8 are barred by
16 the Court's order on Fujitsu's motion *in limine* concerning pre-suit correspondence
17 and licensing discussions. Defendants contend that they may be admitted as to
18 willfulness and inducement. Fujitsu does not assert any other objections to the
19 documents in Table 8. If the Court rules that these exhibits may be admitted as to
20 willfulness and inducement, it is Fujitsu's position that the Court should provide a
21 limiting instruction and the documents should be redacted such that only the
22 information relating to invalidity comes into evidence.

23
24 Nothing in this Stipulation shall limit the rights of Fujitsu or Defendants to make
25 any arguments with respect to the merits of the claims and defenses in this action.

26 Fujitsu and Defendants agree that this Stipulation may not be used by either party
27 to introduce evidence that would be excluded by one of the Court's rulings on Motions *in*
28 *Limine* and/or *Daubert* issues.

1 Fujitsu and Defendants further agree that this Stipulation embodies the entire
2 agreement between them, and that the details of negotiations regarding the preparation of
3 this Stipulation may not be used by any party in this action to vary the terms of this
4 agreement.

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Respectfully submitted,

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DATE: November 23, 2012

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DATE: November 23, 2012

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Attorneys for Defendants D-LINK CORPORATION
and D-LINK SYSTEMS, INC.

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² In compliance with General Order 45.X.B, I hereby attest that concurrence in the filing of this document has been obtained from each of the other signatories hereto.

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DATE: November 23, 2012

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Attorneys for Defendant NETGEAR, INC.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATE: November 25, 2012

By: Lucy H. Koh
The Honorable Lucy H. Koh
United States District Court Judge

ATTACHMENT A

Table 1

Plaintiff's Exhibits Admitted Into Evidence Without Restriction

Plaintiff's Exhibits
PTX1 - PTX24
PTX26 - PTX67
PTX70 - PTX105
PTX107
PTX109
PTX110 - PTX160
PTX163
PTX175
PTX176
PTX179
PTX182 - PTX204
PTX206 - PTX210
PTX212 - PTX215
PTX218
PTX222
PTX228 - PTX274
PTX279 - PTX288
PTX290 - PTX300 ¹

¹ Pursuant to the Court's ruling on Fujitsu's motion *in limine* #4, PTX297 - PTX300 are admitted for the limited purpose of establishing notice. Other portions of these exhibits will be redacted.

Table 2

Defendants' Exhibits Admitted Into Evidence Without Restriction

Defendants' Exhibits
DTX1
DTX2
DTX3
DTX12
DTX22
DTX27
DTX40
DTX41
DTX49
DTX50
DTX51
DTX53
DTX55
DTX59
DTX71
DTX73
DTX75 - DTX85
DTX87
DTX89 - DTX91
DTX126
DTX129 - DTX135
DTX138 - DTX148
DTX160 - DTX167
DTX169 - DTX173
DTX175
DTX177 - DTX182
DTX188
DTX202
DTX205
DTX207
DTX208
DTX215
DTX216
DTX217
DTX239
DTX250
DTX267
DTX268

Defendants' Exhibits
DTX270 - DTX273
DTX293 - DTX295
DTX310
DTX318
DTX321 - DTX324
DTX327
DTX335 - DTX339
DTX341 - DTX346
DTX348 - DTX350
DTX357
DTX361
DTX362
DTX364 - DTX367
DTX369 - DTX377
DTX380 - DTX402
DTX409
DTX410
DTX416
DTX425
DTX427 - DTX429
DTX432
DTX433
DTX439
DTX457
DTX462
DTX475 - DTX478
DTX481
DTX488 - DTX490
DTX494 - DTX507
DTX509 - DTX525
DTX529
DTX531
DTX559
DTX564
DTX570
DTX575 - DTX580
DTX586 - DTX589
DTX595 - DTX597
DTX599
DTX600
DTX616
DTX618
DTX619

Defendants' Exhibits
DTX632
DTX641
DTX663
DTX710
DTX713
DTX721
DTX722
DTX729
DTX733 - DTX735
DTX766
DTX779
DTX780 - DTX785
DTX789 - DTX791
DTX801
DTX819 - DTX829
DTX831 - DTX833
DTX837
DTX838
DTX840
DTX841 - DTX847
DTX851
DTX855 - DTX861

Table 3

**Defendants' Exhibits Admitted Into Evidence To Show State Of The Art
(Limiting Instruction Required)**

Defendants' Exhibits
DTX104
DTX112
DTX120
DTX184
DTX185
DTX187
DTX189
DTX201
DTX213
DTX214
DTX218
DTX220
DTX221
DTX278
DTX532
DTX560
DTX582
DTX590
DTX591
DTX592
DTX593
DTX630
DTX715

Table 4

**Defendants' Exhibits Admitted Into Evidence As To Willfulness Or Inducement
(Limiting Instruction Required)**

Defendants' Exhibits	
DTX32	(Belkin only; admit claim chart but not letter)
DTX184	(Netgear only)
DTX187	(Netgear only)
DTX189	(Netgear only)
DTX526	(Netgear and D-Link only)
DTX560	(Belkin only)
DTX592	(Netgear and D-Link only)
DTX630	(Netgear and D-Link only)
DTX715	(Netgear and D-Link only)

Table 5

Defendants' Exhibits Admitted Into Evidence To Show State Of The Art And As To Willfulness Or Inducement (Limiting Instruction Required)

Defendants' Exhibits
DTX184
DTX187
DTX189
DTX560
DTX592
DTX630
DTX715

Table 6

Defendants' Exhibits For Which There Is No Dispute As To Authenticity, But For Which Fujitsu May Assert Other Objections

Defendants' Exhibits
DTX210
DTX818

Table 7

Defendants' Exhibits For Which There Is No Dispute As To Authenticity, But Which Are Subject To The Court's Ruling On November 20, 2012

Defendants' Exhibits
DTX58
DTX97
DTX103
DTX109
DTX110
DTX191
DTX192
DTX193
DTX199
DTX200
DTX203
DTX204
DTX206
DTX219
DTX581
DTX601
DTX602
DTX603
DTX604
DTX605
DTX730
DTX731
DTX732

Table 8

**Defendants' Exhibits For Which There Is No Dispute As To Authenticity,
But For Which There Is A Dispute About Whether They Are Barred By
Fujitsu's Motion *In Limine* Regarding Pre-Suit Communications**

Defendants' Exhibits
DTX30
DTX31
DTX33
DTX34
DTX420
DTX421
DTX422
DTX424
DTX463
DTX487
DTX543
DTX572
DTX657
DTX677
DTX793