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E-FILED on 9/9/13

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IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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SAN JOSE DIVISION

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REALTEK SEMICONDUCTOR
CORPORATION,

No. C-12-03451 RMW

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Plaintiff,

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**SUPPLEMENTAL CASE MANAGEMENT
ORDER**

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v.

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LSI CORPORATION, et al.,

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Defendants.

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The court hereby issues its Supplemental Case Management Order following the conference and motions heard on September 6, 2013:

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1. Legal Issues

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The parties are to meet and confer on the issues to be resolved at trial; submit a list of those issues briefly summarizing each party's position on the issue; and state whether there is a right to a jury trial on each of those issues and, if so, whether the parties waive their rights to a jury trial on each of those issues. The list of issues and briefing will address, among other subjects:

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- the admissibility and relevance of LSI/Agere's alleged offer of a RAND license to Realtek on June 12, 2012. If LSI/Agere's June 2012 proposal was a RAND proposal or an offer to negotiate RAND terms, does that offer mitigate or bar any claim by Realtek for damages incurred after June

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SUPPLEMENTAL CASE MANAGEMENT ORDER
No. C-12-03451 RMW
ALG

1 12, 2012? Conversely, can Realtek assert that LSI/Agere's alleged failure to make a RAND offer in
2 its June 2012 proposal constitutes an alternative basis for liability?

3 • what relevance, if any, does whether or not Realtek infringes the '958 and '867 patents
4 have with respect to what is a RAND rate for those patents?

5 The joint submission called for in this section 1 is due on or before September 11, 2013.

6 **2. Motions**

7 There are no motions pending.

8 **3. Discovery**

9 Both fact and expert discovery are now closed. Realtek expects to produce
10 additional materials reflecting its claimed ongoing attorney's fees and costs in defending itself
11 against LSI/Agere's assertion of allegedly standard essential patents, including billing invoices, as
12 those damages continue to accrue, and reserves any rights it has to supplement expert reports and
13 disclosures consistent with its still ongoing damages.

14 **4. Relief**

15 **a. Realtek Statement**

16 The relief Realtek seeks includes: (a) an order setting a RAND rate; (b) an order enjoining
17 LSI/Agere from further demanding excessive royalties from Realtek that are not consistent with
18 their RAND obligations, and from enforcing, or seeking to enforce, patent infringement claims in
19 the ITC (or elsewhere) in breach of their RAND obligations; (c) a judicial declaration that if
20 LSI/Agere refuses to offer Realtek a license on a non-discriminatory basis on reasonable terms and
21 conditions, that LSI/Agere's alleged essential patents are unenforceable as to Realtek and its
22 products; (d) judgment against LSI/Agere in the amount of damages that Realtek has suffered as a
23 result of LSI/Agere's breaches and broken promises; (e) judgment awarding Realtek its expenses,
24 costs, and attorneys' fees; and (f) such other and further relief as the Court deems just and proper.

25 **b. LSI/Agere Statement**

26 LSI/Agere seeks: (a) judgment in its favor on Realtek's claims; (b) a judgment that
27 LSI/Agere have fully complied with any RAND obligation owed to Realtek; (c) a judgment that
28 Realtek has rejected or repudiated any right to a RAND license under the patents; (d) a judgment

1 that LSI/Agere have a right to seek an injunction and/or exclusion order for Realtek's infringement
2 of the patents; (e) judgment awarding LSI/Agere all costs of the suit; and (f) an award of its
3 expenses, costs, attorneys' fees, and such other and further relief as the Court deems just and proper.

4 **5. Settlement and ADR**

5 The parties are required to attend a settlement conference with Magistrate Paul Grewal to be
6 held before the final pretrial conference. It is the parties' responsibility to contact the Magistrate
7 Judge's chambers to schedule the conference and they should do so without delay to insure the
8 availability of a date that complies with the court schedule set forth in section 6 below. With court
9 approval, the parties may substitute private mediation.

10 **6. Schedule**

11 Event	Agreed Date or Deadline
12 Discovery Completion	May 1, 2013
13 Initial Expert Reports Due	May 29, 2013
14 Rebuttal Expert Reports Due	June 24, 2013
15 Expert Discovery Completion	August 1, 2013
16 Last Day to File Dispositive Motions	August 2, 2013
17 Last Day for Hearing on Dispositive Motions	September 6, 2013
18 Last Date to meet and confer re Pretrial Preparation	September 25, 2013
19 Last day to file or lodge materials required in Section B of Standing Order Re: Pretrial Preparation	September 26, 2013
20 Last day to file or lodge materials required in Section C of Standing Order Re: Pretrial Preparation	October 3, 2013
21 Final Pretrial Conference	October 10, 2013
22 Trial Date	November 4, 2013

23 DATED: September 9, 2013

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25 RONALD M. WHYTE
26 United States District Judge