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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

REALTEK SEMICONDUCTOR,
CORPORATION,

Plaintiff,

v.

LSI CORPORATION AND AGERE
SYSTEMS LLC,

Defendants.

Case No. C-12-3451-RMW

**ORDER RE PRETRIAL
EVIDENTIARY OBJECTIONS**

[Re: Dkt. Nos. 233, 244]

1. **LSI's objection to Realtek's billing invoices as subject to a motion in limine, belated production, and hearsay.** Dkt. No. 233 at 15.

OVERRULED. The court has previously ruled on the objection to the billing records as not having been produced timely. Specifically, the court denied LSI's motion to exclude the billing records based upon Realtek's late production. However, to alleviate any prejudice to LSI by the late production, the court allowed LSI leave to offer an expert to testify on the reasonableness of Realtek's damages. As for the hearsay objection, the court notes that Realtek may satisfy its prima facie obligation to establish damages by offering authenticated billing records to show the amount it paid its lawyers for defense of the ITC investigation.

1 *See Jackson v. Yarbray*, 179 Cal. App. 4th 75, 95-96 (2009). They would not be hearsay for
2 that purpose because they are not being offered for the truth of the matter asserted (i.e., that
3 Realtek’s ITC attorneys worked the hours shown and spent time on the items described).
4 Should LSI raise a mitigation defense that, as one example, certain billed items were not
5 necessary, any Realtek rebuttal witness would be required to establish the predicate elements
6 of the business records hearsay exception or some other exception to the hearsay rule in
7 order to present the billing records as evidence of the reasonableness of the fees.

- 8 2. **Realtek’s objection to certain licensing agreements between LSI and third parties and**
9 **between Realtek and third parties as irrelevant and prejudicial.** Dkt. No. 233 at 15-16.

10 **OVERRULED.**

- 11 3. **Deposition Designations Group One** (Abhi Talwalkar). Dkt. No. 244-1 at 1-2.

12 **SUSTAINED.**

- 13 4. **Deposition Designations Group Two** (Abhi Talwalkar). Dkt. No. 244-1 at 3-4.

14 **OVERRULED.**

- 15 5. **Deposition Designations Group Three** (Abhi Talwalkar). Dkt. No. 244-1 at 5-6.

16 **SUSTAINED.**

- 17 6. **Deposition Designations Group Four** (Ryan Phillips). Dkt. No. 244-1 at 7.

18 **OVERRULED.**

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21 Dated: February 7, 2014


RONALD M. WHYTE
United States District Judge