

United States District Court
 For the Northern District of California

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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

REALTEK SEMICONDUCTOR, CORPORATION, <p style="text-align: center;">Plaintiff,</p> v. LSI CORPORATION AND AGERE SYSTEMS LLC, <p style="text-align: center;">Defendants.</p>	Case No. C-12-3451-RMW ORDER RE REALTEK REBUTTAL TOPICS [Re: Dkt. No. 294]
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The court has reviewed the parties’ submissions regarding the subjects Realtek wants to offer from Dr. Leonard, Dr. Shoemake, and Carl Andren in its rebuttal case. To be admissible the evidence must be either impeaching or necessary to counter new, unforeseen facts brought out in the other side’s case. *See Daly v. Far Eastern Shipping Co. PLC.*, 238 F. Supp. 2d 1231, 1238 (W.D. Wash. 2003) *aff’d sub nom. Daly v. Fesco Agencies NA Inc.*, 108 F. App’x 476 (9th Cir. 2004). The court has used this standard in determining whether the proffered rebuttal testimony is admissible.

- Dr. Shoemake:**
1. **Inadmissible**
 2. **Inadmissible**

- 1 3. **Inadmissible**
- 2 4. **Admissible**
- 3 5. **Inadmissible**
- 4 6. **Admissible**
- 5 7. **Inadmissible**
- 6 8. **Inadmissible**
- 7 9. **Inadmissible**
- 8 10. **Inadmissible**
- 9 11. **Inadmissible**
- 10 12. **Inadmissible**
- 11 13. **Inadmissible**
- 12 14. **Inadmissible**
- 13 15. **Inadmissible**
- 14 16. **Admissible**, but limited to the topic of whether voice capability was an application of the
15 '867 Patent.
- 16 17. **Inadmissible**
- 17 18. **Inadmissible**
- 18 19. **Inadmissible**
- 19 20. **Inadmissible**
- 20 21. **Inadmissible**
- 21 22. **Admissible**
- 22 23. **Inadmissible**
- 23 24. **Inadmissible**

24
25 **Dr. Leonard:**

- 26 1. **Inadmissible**, unless Realtek makes a proffer to the court that Dr. Layne-Farrar made an
27 arithmetic error in her new calculation, or that Dr. Layne-Farrar changed her methodology
28 (other than the number of patents she included) when she added the five additional patents.

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- 2. **Inadmissible**
- 3. **Inadmissible**
- 4. **Inadmissible**
- 5. **Inadmissible**
- 6. **Inadmissible**
- 7. **Inadmissible**

Carl Andren:

- 1. **Admissible**
- 2. **Admissible**
- 3. **Admissible**

Dated: February 23, 2014


RONALD M. WHYTE
United States District Judge