

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

HYSITRON INCORPORATED,
a Minnesota corporation

Court File No.: 07-1533 ADM/AJB

Plaintiff,

vs.

MTS SYSTEMS CORPORATION,
a Minnesota corporation

Defendant.

STIPULATION TO MODIFY PRETRIAL SCHEDULING ORDER

Plaintiff Hysitron Incorporated (“Hysitron”) by and through its undersigned counsel, and Defendant MTS Systems Corporation (“MTS”) by and through its undersigned counsel, hereby stipulate and agree as follows:

WHEREAS, Defendant MTS has retained Winthrop & Weinstine as new legal counsel to represent it in this lawsuit and Winthrop & Weinstine commenced its representation of MTS on July 24, 2007; and

WHEREAS, in order for Winthrop & Weinstine to respond to and comply with certain deadlines established in the Pretrial Scheduling Order, including, *inter alia*, the August 1, 2007 deadline by which Defendant is to serve “Defendant’s Claim Chart” and the August 15, 2007 deadline by which the parties are simultaneously to exchange a list of claim terms, phrases or clauses which each party contends should be construed by the Court Winthrop & Weinstine must obtain the files from MTS’ prior counsel and become familiar with the facts and issues in this case; and

WHEREAS, Winthrop & Weinstine has requested Merchant & Gould, counsel for Hysitron to agree to an extension of certain disclosure dates established in said Pretrial Scheduling Order in light of the fact that Winthrop & Weinstine has just recently become counsel for MTS; and

WHEREAS, Winthrop & Weinstine and Merchant & Gould have agreed that it is appropriate, under these circumstances, to extend certain disclosure dates and deadlines in said Pretrial Scheduling Order as set forth herein.

THEREFORE, it is stipulated and agreed as follows:

1. The date on or before which Defendant shall serve upon Plaintiff "Defendant's Claim Chart" shall be extended from August 1, 2007 to August 15, 2007.

2. The date on or before which the parties shall simultaneously exchange a list of claim terms, phrases or clauses which each party contends shall be construed by the Court shall be extended from August 15, 2007 to September 1, 2007.

3. The date by which the parties shall meet and confer for the purpose of finalizing a list of claim terms to be construed by the Court, narrowing and resolving differences with respect thereto, and facilitating the ultimate preparation of a joint claim construction statement shall be extended from September 1, 2007 to September 15, 2007.

4. The date on or before which the parties shall notify the Court as to whether they request that the Court schedule a Claim Construction Hearing to determine claim interpretation and the time by which the parties shall complete and file with the Court a joint claim construction statement shall be extended from October 1, 2007 to October 15, 2007.

5. The date on or before which Defendant shall serve on Plaintiff a list of all prior art on which it relies ("Defendant's Prior Art Statement"), shall be extended from September 1, 2007 to September 15, 2007.

6. The date on or before which Plaintiff shall serve on Defendant its position on Defendant's prior art ("Plaintiff's Prior Art Statement") shall be extended from October 1, 2007 to October 15, 2007.

7. The parties agree that all other dates set forth in the Pretrial Scheduling Order shall remain unchanged.

8. The parties further agree that this Stipulation shall be submitted to the Court with a request that the Court approve an Amended Pretrial Scheduling Order consistent with the parties' agreement as set forth herein.

Dated: July 31, 2007 MERCHANT & GOULD, P.C.



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Counsel for Plaintiff Hysitron Incorporated

Dated: July 31, 2007

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