

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

SYNQOR, INC.

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V.

No. 2:14-CV-287-RWS-JBB

VICOR CORPORATION

ORDER SETTING FORTH COURT’S RULINGS ON DISPUTED EXHIBITS

The Court, having considered the parties’ joint briefs (Dkt. Nos. 615, 617) and the arguments of Plaintiff SynQor, Inc. and Defendant Vicor Corporation (collectively “the Parties”) regarding objections to exhibits, sets forth the Court’s rulings from the October 6-7, 2022 pretrial conference as follows:

**VICOR’S OBJECTIONS TO SYNQOR’S EXHIBITS
PRESENTED AT PRETRIAL CONFERENCE**

1) Category 1

Vicor withdraws its objections to exhibits PTX1389, PTX1390, PTX1391, PTX1393, and PTX2295.

The Court sustains Vicor’s objections to the admissibility of the following exhibits, subject to SynQor being allowed to approach Judge Schroeder if SynQor believes Vicor has opened the door to their use: PTX1392, PTX2548.

The Court overrules Vicor’s objections to the admissibility of the following exhibit, subject to the Parties working together to redact any reference to the Ericsson settlement and license agreement: PTX2564.

The Court overrules Vicor’s objections to the admissibility of the following exhibit, subject to the Parties working together to redact reference to \$50 per part: PTX0973.

2) Category 2

Vicor withdraws its objections to PTX2299, PTX2303, PTX2304, and PTX1442.

The Court overrules Vicor's objections to the admissibility of the following exhibit, subject to the Parties working together to redact any reference to the Ericsson settlement and license agreement: PTX2302.

The Court sustains Vicor's objection to the following as an exhibit; it may be used with expert witnesses before the jury and as a demonstrative only: PTX2531.

The Court overrules Vicor's hearsay objections to the following exhibits, and their admissibility as to specific information contained with the Form 10-Ks will be governed by the Court's ruling on Vicor's *in limine* 5: PTX1174, PTX2501, PTX2502, PTX2503, PTX2504, PTX2505, PTX2506, PTX2507, PTX2508, PTX2509, PTX2510, PTX2511, PTX2512, PTX2513, PTX2514.

The Court overrules Vicor's objection to PTX1394.

3) Category 3

SynQor withdraws the following exhibit: PTX2433.

The Court sustains Vicor's objections to the following exhibits: PTX2423, PTX2430, PTX2431.

The Court overrules Vicor's objections to the following exhibits: PTX2426, PTX2427, PTX2428, PTX2429, PTX2438, PTX2439, PTX2440, PTX2441.

Regarding Vicor's objection to PTX2437, the appropriate expert for SynQor may rely on this exhibit if a proper foundation can be laid at trial pursuant to FRE 703.

4) Category 4

The Court sustains Vicor's objections to the following exhibits (Cisco's shipping and manufacturing data) at this time; however, the information may be used with expert witnesses before the jury. To the extent a proper foundation is laid at trial, SynQor may approach Judge Schroeder as to their admissibility as exhibits: PTX0594, PTX0595, PTX0596, PTX0597, PTX0598, PTX0599, PTX0600, PTX0601, PTX0602, PTX0603, PTX0604, PTX0605, PTX0606, PTX0607, PTX0608, PTX0609, PTX0610, PTX0611, PTX0612, PTX0613, PTX0614, PTX0615, PTX0616, PTX0617, PTX0618, PTX0619, PTX0620, PTX0621, PTX0622, PTX0623, PTX0624, PTX0625, PTX0626, PTX0627, PTX0628, PTX0629, PTX0630, PTX0631, PTX0632, PTX0633, PTX0634, PTX0635, PTX0636, PTX0637, PTX0638, PTX0639, PTX0640, PTX0641, PTX0642, PTX0643, PTX0644, PTX0645, PTX0646, PTX0647, PTX0648, PTX0649, PTX0650, PTX0651, PTX0652, PTX0653, PTX0654, PTX0655, PTX0656, PTX0657, PTX0658, PTX0659, PTX0660, PTX0661, PTX0662, PTX0663, PTX0664, PTX0665, PTX0666, PTX0667, PTX0668, PTX0669, PTX0670, PTX1105, PTX1301, PTX1302, PTX1303, PTX1304, PTX1305, PTX1306, PTX1307, PTX1308, PTX1309, PTX1310, PTX1311, PTX1312, PTX1313, PTX1314, PTX1315, PTX1316, PTX1317, PTX1318, PTX1319, PTX1320, PTX1321, PTX1322, PTX1323, PTX1324, PTX1325, PTX1326, PTX1327, PTX1328, PTX1329, PTX1330, PTX1331, PTX1332, PTX1362, PTX1363, PTX1364, PTX1365, PTX1366, PTX1375, PTX1376, PTX1377, PTX1378, PTX1379, PTX1380, PTX1381, PTX2241, PTX2242, PTX2243, PTX2244, PTX2245, PTX2246, PTX2247, PTX2248, PTX2249, PTX2250, PTX2251, PTX2252, PTX2253, PTX2496, PTX2497, PTX2498, PTX2499, PTX2500.

The Court sustains Vicor's objections to the following exhibits at this time; however, if Vicor challenges Mr. Reed and opens the door, and to the extent a proper foundation is laid at trial,

SynQor may approach Judge Schroeder as to their admissibility as exhibits: PTX2515, PTX2516, PTX2517, PTX2518, PTX2519, PTX2520, PTX2521, PTX2522, PTX2523, PTX2524, PTX2525, PTX2526, PTX2527, PTX2528, PTX2529, PTX2530.

5) Category 5

The Court sustains Vicor's objections to the following exhibits, unless the Parties agree otherwise as to the resumes of the experts: PTX1668, PTX2533, PTX2450.

The Court overrules Vicor's objections to test results. The following exhibits are pre-admitted subject to Dr. Dickens' laying a foundation for their use at trial: PTX1682, PTX1683, PTX1684, PTX2041, PTX2042, PTX2043, PTX0315, PTX0316, PTX0317, PTX0318, PTX0319, PTX0321, PTX0322, PTX0323, PTX0324, PTX0325, PTX0326, PTX0327, PTX0331, PTX0334, PTX0335, PTX0338, PTX0339, PTX0340, PTX0341, PTX0344, PTX0347, PTX0348, PTX0562.

The Court sustains Vicor's objections to the following exhibits at this time, subject to the Parties working together on new summaries which are agreeable to both sides and more easily understood by the jury: PTX1838, PTX1966, PTX2087, PTX2452. Mr. Reed may still show this information as a demonstrative.

6) Category 6

SynQor or third party emails, press releases, or PowerPoints

SynQor withdraws the following exhibit: PTX0978.

The Court overrules Vicor's objections to the following exhibits based upon their use with witnesses during their depositions in the '54 case: PTX1286, PTX1487, PTX1495.

The Court overrules Vicor's objections to the following exhibits: PTX1114, PTX1115.

Vicor withdraws its objections to exhibits PTX1478, PTX1479, PTX1480, PTX1520, PTX1522, PTX1525, PTX1542.

SynQor withdraws exhibit PTX1491. SynQor may play PTX1491 as a demonstrative.

The Court overrules Vicor's objections to exhibits PTX1483, PTX1484, subject to SynQor laying a proper foundation at trial.

Prior litigation filings

SynQor withdraws exhibit PTX1288.

The Court sustains Vicor's objections to PTX1642, PTX1644, PTX2012. SynQor may use the information for impeachment purposes.

The Court overrules Vicor's objections to PTX2557, PTX2237, PTX2238, PTX2239, PTX2240.

Academic articles

The Court sustains Vicor's objections to PTX2570, PTX1496, PTX1597, PTX1600, PTX1620, PTX1621, PTX1622, PTX2571; however, the information may be used with witnesses before the jury.

The Court overrules Vicor's objection to exhibit PTX1499.

Third party purchase orders

The Court overrules Vicor's objections to the following exhibits, subject to SynQor laying the proper foundation at trial: PTX1268, PTX1273.

SynQor screenshots of markings

The Court overrules Vicor's objections to the following exhibits, subject to SynQor laying the proper foundation at trial: PTX2386, PTX2387.

Prager Declaration

The Court sustains Vicor's objection to exhibit PTX2589. SynQor may use this for impeachment purposes.

7) Category 7

Exhibits purportedly showing competitive analysis

The Court overrules Vicor's objections to the following exhibits: PTX1230, PTX1222, PTX1223, PTX2401, PTX1212. SynQor may use these exhibits for intent/willfulness, not obviousness.

Prior filings

The Court overrules Vicor's objections to the following exhibits: PTX1643, PTX1645, PTX1652, PTX2588. SynQor may use the information for impeachment purposes.

8) Category 8

To the extent Vicor's state law counterclaims remain in this trial, the Court overrules Vicor's relevance objection to the following exhibits: PTX1649, PTX1648, PTX2030, PTX2031, PTX2033, PTX1651, PTX2549, PTX2552, PTX2553, PTX2032, PTX2554, PTX2550, PTX2551.

9) Category 9 – Vicor interrogatory responses

The Court sustains Vicor's objections to interrogatories as exhibits. However, the Court will allow SynQor to read interrogatory responses into the record and also to be used as demonstratives. The Court will allow Vicor to do the same with interrogatories to be identified by Vicor on or before October 9, 2022.

SYNQOR'S OBJECTIONS TO VICOR'S EXHIBITS
PRESENTED AT PRETRIAL CONFERENCE

1) Exhibits related to Vicor's state law counterclaims

The Court overrules SynQor's objections as to the following exhibits: DTX0141, DTX0144, DTX0161, DTX0190, DTX0192, DTX0194, DTX0202, DTX0234, DTX0260, DTX0262, DTX0276, DTX0299, DTX0300, DTX0321, DTX1020, DTX1021, DTX1040, DTX1104, DTX1106, DTX1109, DTX1125, DTX1131, DTX1144, DTX1148, DTX1158,

DTX1161, DTX1410, DTX1411, DTX1412, DTX1413, DTX1422, DTX1427, DTX1428. If personal animosity between the heads of the companies and/or inflammatory evidence regarding SynQor's alleged unfair competition become too much of a focal point of the trial, SynQor may approach the bench and address the issue with Judge Schroeder.

The Court sustains SynQor's objections to the following exhibits: DTX0182, DTX0195, DTX251, DTX0319, DTX0545, DTX1423.

The Court sustains SynQor's objection to exhibit DTX1128. However, this information may be used for impeachment purposes.

The Court overrules SynQor's objection to exhibit DTX0212, with appropriate redaction as to No. 5.

2) Exhibits related to Vicor's equitable defenses

Vicor withdraws the following exhibits: DTX0934, DTX0936, DTX1406, DTX1431.

3) Alleged inflammatory emails

The Court sustains SynQor's objections to the following exhibits: DTX0055, DTX0128, DTX0164, DTX0211, DTX0221.

4) Reexaminations of SynQor's patents by Vicor and Third-Party Murata

Vicor withdrew the following exhibits in advance of the hearing based on the preliminary *in limine* rulings: DTX0015, DTX1379, DTX1382, DTX1385.

At the hearing, Vicor withdrew the following exhibits: DTX0003, DTX0004, DTX0011, DTX0012, DTX1227, DTX1229, DTX1380, DTX1381, DTX1383, DTX1384.

5) NBM's

Vicor withdraws the following exhibits: DPX0020, DTX1238, DTX1243, DTX1248, DTX1362, DTX1364, DTX1365.

6) Documents describing factorized power architecture (“FPA”)

SynQor withdraws its objections to the following exhibits: DTX0428, DTX0444, DTX0449, DTX0450, DTX0453, DTX0454, DTX0464, DTX0467, DTX0493, DTX0599, DTX0744, DTX0745, DTX0750, DTX0752, DTX0770, DTX0844, DTX0854, DTX0858, DTX0883, DTX0068, DTX0077, DTX1416, DTX0433, DTX0451, DTX0455, DTX0465, DTX0476, DTX0480, DTX0482, DTX0570, DTX0632, DTX0865.

7) Modified IBC

The Court overrules SynQor’s objection to the following exhibit: DPX0003.

8) Physical exhibits not produced during discovery

Vicor withdraws exhibit DPX0020.

The Court reserves its ruling on SynQor’s objections to the following exhibits at this time, allowing SynQor the opportunity to inspect the physical exhibits and/or raise with Judge Schroeder during trial Vicor’s purported lack of disclosure during discovery: DPX0006, DPX0007, DPX0008, DPX0013, DPX0014, DPX0015, DPX0016.

9) Prior art not on Vicor’s narrowed list

Vicor withdraws as exhibits the following Cobos references: DTX1081, DTX0218.

The Court sustains SynQor’s objections to the following exhibits: DTX0027, DTX0029, DTX0096, DTX0097, DTX0098, DTX0337, DTX0348, DTX0363, DTX0370, DTX0387, DTX0406, DTX0650, DTX0667, DTX0668, DTX0676, DTX0677, DTX0683, DTX0842, DTX1077, DTX1181.

10) Exhibits regarding SynQor's knowledge of, or comparison of its bus converters to, Vicor's bus converters

The Court sustains SynQor's objections to the following exhibits: DTX0032, DTX0036, DTX0057, DTX0152, DTX0156, DTX0226, DTX1167, DTX1424, DTX1425. This information may be used for impeachment purposes.

11) Advice of counsel

The Court reserves its ruling on SynQor's objection to the following exhibit, as redacted by Vicor at the pretrial conference: DTX0481. The parties shall approach the bench regarding this redacted exhibit in the context of Dr. Vinciarelli's testimony at trial.

12) Valuations of SynQor

SynQor withdraws its objections to the following exhibits, as redacted and agreed to by the Parties: DTX0284, DTX0288, DTX0289.

13) Non-comparable license agreements

The Court overrules SynQor's objections to the following exhibits: DTX0515, DTX0519, DTX0616, DTX0618, DTX0619, DTX0640, DTX0641, DTX0642, DTX0643.

14) Vicor ads and articles

The Court overrules SynQor's objections to the following exhibits: DTX0708, DTX0720, DTX0725, DTX0749, DTX0755, DTX0763, DTX0766, DTX0793, DTX0794, DTX0870, DTX1084.

15) Vicor patents

SynQor withdraws its objections to exhibit DTX0639.

Vicor withdraws the following exhibits: DTX1238, DTX1243, DTX1248.

The Court overrules SynQor's objections to the following exhibits: DTX0807, DTX0815, DTX0816, DTX0817, DTX0798.

16) Exhibits regarding Raytheon's use of Vicor BCMS

The Court overrules SynQor's objections to the following exhibits: DTX0634, DTX0636, DTX0876.

17) Exhibits regarding MicroPAC

The Court reserves its ruling on SynQor's objections to the following exhibits, to be addressed at the same time the Court considers the Parties' objections to deposition designations: DPX0006, DTX0555, DTX0556, DTX0557, DTX0558, DTX0559, DTX0560, DTX0561, DTX0562, DTX0564, DTX0565, DTX0587, DTX0631, DTX0633, DTX0637, DTX0860, DTX0861.

18) Damages reports exhibits

Vicor withdraws the following exhibits: DTX1219, DTX1220. However, the Court encouraged the Parties to try to agree on the use of demonstratives from the Parties' experts' damages reports.

19) Untimely exhibits

The Court overrules SynQor's timeliness objections to the following exhibits: DTX1410, DTX1411, DTX1412, DTX1413, DTX1414, DTX1415, DTX1416, DTX1417, DTX1418, DTX1422, DTX1423, DTX1424, DTX1425, DTX1427, DTX1428, DTX1429, DTX1430, DTX1431, DTX1434, DTX1439, DTX1440. The Parties are instructed to apply the Court's previous rulings on similar exhibits to this grouping.

To the extent warranted, the Court will take up any remaining objections to these exhibits at the same time the Court considers the Parties' objections to deposition designations.

20) SynQor emails

The Court overrules SynQor's objections to the following exhibits: DTX0062, DTX0085, DTX0090. SynQor may approach the bench if the evidence regarding failures of SynQor converters in certain third-party applications becomes too much a focal point during trial.

21) PowerQor documents

Vicor withdraws exhibit DTX0873.

The Court overrules SynQor's objection to the following exhibit: DTX0093.

The Court sustains SynQor's objections to the following exhibits: DTX1415, DTX1418.

Vicor may use the information for impeachment purposes.

22) Steigerwald CV

Absent an agreement between the Parties regarding resumes, the Court sustains SynQor's objection to the following exhibit: DTX1163. Vicor is allowed to amend Dr. Steigerwald's deposition designations to include his background information.

23) Emails relaying Vicor's "non-infringement"

The Court overrules SynQor's objection to exhibit DTX0624, with the Parties ordered to meet and confer on agreed redactions to the exhibit in line with the Court's guidance at the pretrial conference.

Regarding exhibits DTX0613/DTX1185, the Court sustains SynQor's objections to the top two emails contained in the exhibit but overrules SynQor's objections to the bottom email contained in the exhibit, with appropriate redactions. Vicor may approach the bench to the extent SynQor opens the door to the exhibit's use.

IT IS SO ORDERED.

SIGNED this the 7th day of October, 2022.



J. Boone Baxter
UNITED STATES MAGISTRATE JUDGE