

(Counsel listed on signature page)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

TECHNOLOGY PROPERTIES LIMITED
LLC, PHOENIX DIGITAL SOLUTIONS LLC,
and PATRIOT SCIENTIFIC CORPORATION,

Plaintiffs,

v.

LG ELECTRONICS, INC. AND LG
ELECTRONICS U.S.A., INC.,

Defendants.

Case No. 3:12-cv-03880-VC (PSG)

**DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION TO LIMIT
DEFENDANTS' SUBPOENAS TO THIRD
PARTY CHARLES MOORE OR,
ALTERNATIVELY, FOR A PROTECTIVE
ORDER**

DATE: August 11, 2015
TIME: 10:00 a.m.
JUDGE: Hon. Paul S. Grewal
DEPT. Courtroom 5, 4th Floor

TECHNOLOGY PROPERTIES LTD. LLC, et
al.,

Plaintiffs,

v.

BARNES & NOBLE, INC.,

Defendant.

Case No.: 3:12-CV-03863-VC (PSG)

1 TECHNOLOGY PROPERTIES LIMITED
2 LLC, PHOENIX DIGITAL SOLUTIONS
3 LLC, and PATRIOT SCIENTIFIC
4 CORPORATION,

5 Plaintiffs,

6 v.

7 GARMIN LTD., GARMIN
8 INTERNATIONAL, INC., AND GARMIN
9 USA, INC.,

10 Defendants.

Case No. 3:12-cv-03870-VC (PSG)

11 TECHNOLOGY PROPERTIES LIMITED
12 LLC, PHOENIX DIGITAL SOLUTIONS
13 LLC, and PATRIOT SCIENTIFIC
14 CORPORATION,

15 Plaintiffs,

16 v.

17 HUAWEI TECHNOLOGIES CO., LTD. and
18 HUAWEI NORTH AMERICA,

19 Defendants.

Case No. 2:12-cv-03865-VC (PSG)

20 TECHNOLOGY PROPERTIES LIMITED
21 LLC, PHOENIX DIGITAL SOLUTIONS
22 LLC, and PATRIOT SCIENTIFIC
23 CORPORATION,

24 Plaintiffs,

25 v.

26 ZTE CORPORATION and ZTE (USA)
27 INC.,

28 Defendants.

Case No. 3:12-cv-03876-VC (PSG)

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TECHNOLOGY PROPERTIES LIMITED
LLC, PHOENIX DIGITAL SOLUTIONS
LLC, and PATRIOT SCIENTIFIC
CORPORATION,

Plaintiffs,

v.

SAMSUNG ELECTRONICS CO., LTD. and
SAMSUNG ELECTRONICS AMERICA,
INC.,

Defendants.

Case No. 3:12-cv-03877-VC (PSG)

TECHNOLOGY PROPERTIES LIMITED
LLC, PHOENIX DIGITAL SOLUTIONS
LLC, and PATRIOT SCIENTIFIC
CORPORATION,

Plaintiffs,

v.

NINTENDO CO., LTD. and NINTENDO OF
AMERICA INC.,

Defendants.

Case No. 3:12-cv-03881-VC (PSG)

1 **I. INTRODUCTION**

2 Plaintiffs' motion attempts to parlay a finding of privilege as to two documents in the
3 previous *Acer* case into a shield to withhold production of whole categories of documents from a
4 subpoenaed third party in this case. Plaintiffs' attempt must be rejected.

5 First, the subpoenaed individual Charles H. Moore has his own experienced counsel, who
6 is familiar with the documents and the previous *Acer* case, thus minimizing any risk of inadvertent
7 disclosure of privileged information.

8 Second, Moore left TPL in 2009, and at least since then, TPL's attorneys have not enjoyed
9 an attorney-client privilege with Moore. Third, Plaintiffs have failed to establish that the common-
10 interest exception applies to Moore. Fourth, confidentiality is not a proper basis to withhold
11 documents, at least because confidential discovery is protected under the entered stipulated
12 protective order.

13 In short, Plaintiffs' motion is unwarranted, overreaching, and should be denied.

14 **II. FACTUAL BACKGROUND**

15 Charles H. Moore is one of the two named inventors on each of the three patents asserted
16 by Plaintiffs against Defendants in the above-captioned related cases. As a named inventor, Moore
17 is a distinct source of a variety of information relevant to the asserted patents, including:
18 conception and reduction to practice of the claimed inventions and related research and
19 development activities; inventorship; interpretation of the patent disclosures and claims to the
20 extent Moore is considered a person of ordinary skill in the art¹; prior art; prosecution;
21 reexamination; infringement and non-infringement; validity and invalidity; enforceability;
22 assignment; and licensing. Moreover, as a former officer of TPL, he also possesses relevant
23 knowledge and information about at least Plaintiff TPL.

24 For more than a decade, Plaintiffs have litigated cases involving one or more of the
25 asserted patents, including but not limited to: *HTC Corporation, et al. v. Technology Properties*

26 _____
27 ¹ *Howmedica Osteonics Corp. v. Wright Med. Techn., Inc.*, 540 F.3d 1337, 1346-47 n. 5 (Fed. Cir.
28 2008)

1 *Limited, et al.*, Case No. 5:08-cv-00882 PSG; *Acer, Inc. v. Technology Properties Limited, et al.*,
 2 Case No. 5:08-cv-00877 PSG; and ITC Investigation No. 337-TA-853. Moore has testified and
 3 produced documents in these previous cases. Given Plaintiffs' and Moore's extensive previous
 4 litigation experience, it is hard to believe there is a risk of inadvertent disclosure of privileged
 5 information that warrants the categorical relief Plaintiffs seek in their motion.

6 In this case, on June 9, 2015, Defendants served Plaintiffs with a Notice of Subpoenas for
 7 Production of Documents and Deposition to Moore. After several unsuccessful attempts to serve
 8 Moore with the subpoenas and receiving no acknowledgement from Moore's attorney in response
 9 to Defendants' requests to accept service for Moore, Defendants were finally able to personally
 10 serve Moore on June 22. [Qureshi Decl. ¶ 2.]

11 On June 23, Plaintiffs served objections to the subpoenas. On the same day, *with no*
 12 *attempt to meet and confer with Defendants*, Plaintiffs filed the present motion to limit the
 13 subpoenas or alternatively for a protective order. [*Id.* ¶ 3.]

14 To date, neither Moore nor his attorney Kenneth Prochnow has served any objections to
 15 the subpoena. [*Id.* ¶ 4.] In discussions with Moore's counsel regarding the subpoenas, Moore's
 16 counsel stated that he will review Moore's documents prior to production and will prepare and
 17 provide a privilege log, if necessary. [*Id.* ¶ 4, Ex. A.]

18 Moore's deposition is scheduled for July 15, 2015. [*Id.* ¶ 5, Ex. B.]

19 **III. LEGAL STANDARD**

20 Rule 45 vests a party's attorney with the authority to issue subpoenas compelling a non-
 21 party to produce documents and appear for deposition. Fed. R. Civ. P. 45(a)(1)(C)-(D). Should a
 22 party seek to quash a subpoena, that party bears the burden of persuasion. *See Vondersaar v.*
 23 *Starbucks Corp.*, 2013 WL 1915746, at *2 (N.D. Cal. May 8, 2013). Generally, "a party has no
 24 standing to quash a subpoena served upon a third party, except as to claims of privilege relating to
 25 the documents being sought." *California Sportfishing Protection Alliance v. Chico Scrap Metal,*
 26 *Inc.*, 299 F.R.D. 638, 643 (E.D. Cal. 2014); *see also* Fed. R. Civ. P. 45(d)(3)(A)(iii).

27 Federal law "recognizes a privilege for communications between client and attorney for the
 28 purpose of obtaining legal advice, provided such communications were intended to be

1 confidential.” *Gomez v. Vernon*, 255 F.3d 1118, 1131 (9th Cir. 2001). “The common-interest
 2 doctrine is a narrow exception to the general rule that disclosing information to a third party
 3 constitutes a waiver of the attorney-client privilege.” *Integrated Global Concepts, Inc. v. j2*
 4 *Global, Inc.*, 2014 WL 232211, at *2 (N.D. Cal. Jan 21, 2014). The doctrine applies if “(1) the
 5 communication is made by separate parties in the course of a matter of common [legal] interest;
 6 (2) the communication is designed to further that effort; and (3) the privilege has not been
 7 waived.” *Nidec Corp. v. Victor Co. of Japan*, 249 F.R.D. 575, 578 (N.D. Cal. 2007).

8 A claim of confidentiality is not a ground to withhold production, at least where the case
 9 has a protective order. *See, e.g., Rankine v. Roller Bearing Co. of America, Inc.*, 2013 WL
 10 3992963, at *4 (S.D. Cal. Aug. 5, 2013) (denying the motion to quash a subpoena).

11 **IV. ARGUMENT**

12 **A. Plaintiffs’ Ability to Challenge the Subpoenas Is Restricted to Protecting Their 13 Privileged Information, If Any**

14 Plaintiffs cannot preclude third party Moore from providing subpoenaed documents or
 15 testimony unless Plaintiffs can demonstrate that such preclusion is necessary to protect their
 16 privileged information. *See California Sportfishing*, 299 F.R.D. at 643; *see also* Fed. R. Civ. P.
 17 45(d)(3)(A)(iii). As shown below, Plaintiffs have failed to do that.

18 Plaintiffs are not allowed to control Moore’s review and production of documents and
 19 testimony commanded of him by subpoena: “Nowhere in the Rule [45] is it contemplated that the
 20 adversary of the party seeking the information may advise, no matter the reasons, the person
 21 commanded by the subpoena to produce the information to ignore the subpoena’s command.”
 22 *Price v. Trans Union, L.L.C.*, 847 F.Supp.2d 788, 794 (E.D. Pa. 2012). Such interference with a
 23 subpoena response by an adverse party has been held to constitute sanctionable misconduct. *Id.*

24 **B. Any Potentially Privileged Information Is Already Protected by Experienced 25 and Informed Counsel**

26 Kenneth Prochnow, who represents Moore with respect to Defendants’ subpoenas, also
 27 represented Moore during the previous *Acer* litigation and is familiar with the issues surrounding
 28 the two documents deemed as privileged in that case. Indeed, he has already told Defendants that

1 he will review Moore's documents and provide a privilege log, if necessary. [Qureshi Decl. ¶ 4,
2 Ex. A.]

3 Further, Moore's documents have undoubtedly been vetted before in Plaintiffs' extensive
4 prior litigation. Thus there is little, if any, risk of inadvertent production of privileged information.

5 Plaintiffs are on notice of the deposition and can raise objections to specific testimony
6 there.

7 **C. Plaintiffs Have Failed to Show the Subpoenas Seek Privileged Information**

8 In its motion, Plaintiffs identify only two documents that were deemed privileged in the
9 prior *Acer* litigation. Yet, instead of limiting the scope of its motion to those two documents,
10 Plaintiffs seek to categorically limit the subpoenas as to unidentified documents that Plaintiffs
11 have not shown exist.

12 Plaintiffs ignore that Moore left TPL in 2009, and communications between Moore and
13 TPL since his departure cannot be covered by the attorney-client privilege. Moreover, no attorney-
14 client privilege has ever existed between Moore and the other Plaintiffs' counsel. TPL also cannot
15 broadly claim privilege in an attempt to withhold documents Moore may have from his
16 employment with TPL that were not created by, with, or at the behest of TPL's attorneys.

17 **D. The Common-Interest Exception Does Not Apply**

18 The finding of privilege in the previous *Acer* litigation was based specifically on the
19 attorney-client privilege and no findings were made regarding the common-interest doctrine. [Case
20 No. 3:12-cv-03880, D.I. 89-3, Ex. 2 to Bumgardner Decl. at 3:10-20.]

21 The common-interest doctrine is a narrow exception to the waiver of privilege from
22 disclosure of attorney-client confidential communications to a third party. *Integrated Global*
23 *Concepts*, 2014 WL 232211, at *2. And here, Plaintiffs have failed to establish that this exception
24 applies. For the doctrine to apply, the parties must share a common legal, and not merely
25 commercial, interest. *See In re Fresh and Process Potatoes Antitrust Litigation*, 2014 WL
26 2435581, at *7 (D. Idaho May 30, 2014). "And, even if the parties do share a common legal
27 interest, for the privilege to apply, the communication at issue must be designed to further that
28 legal effort." *Id.* The doctrine "does not extend to communications about a joint business strategy

1 that happens to include a concern about litigation.” *Elan Microelectronics Corp. v. Apple, Inc.*,
 2 2011 WL 3443923, at *2 (N.D. Cal. Aug. 8, 2011). Even sharing an attorney is by itself
 3 insufficient to invoke the doctrine. *See In re Fresh and Process Potatoes Antitrust Litigation*,
 4 2014 WL 2435581, at *11.

5 Plaintiffs have failed to show Moore holds any legal interest in the asserted patents. To the
 6 extent Moore may stand to benefit via royalty income from the patents pursuant to an agreement
 7 with one or more of Plaintiffs, that interest is purely commercial. *See Johnson Matthey, Inc. v.*
 8 *Research Corp.*, 2002 WL 1728566, 6 (S.D. N.Y. 2002) (“A shared desire to succeed in an action
 9 does not, however, rise to the level of a common legal interest. The shared desire to maximize
 10 royalty income is, instead, simply a commercial concern.”).

11 Plaintiffs have also failed to establish that a common-interest privilege automatically
 12 attached based on Plaintiffs’ and Moore’s alleged shared interest in the validity or enforceability
 13 of the asserted patents. Indeed, Moore has been adverse to at least Plaintiff Patriot Scientific
 14 Corporation on validity and enforceability issues when this Plaintiff previously sued Moore and
 15 Technology Properties Limited for determination and correction of inventorship and ownership.
 16 [*Patriot Scientific Corporation v. Charles H. Moore, et al.*, N. D. Cal. Case No. C:04-0618 JCS,
 17 D.I. 1 (Compl.).] Notably, Plaintiffs have not filed a motion to limit the nearly identical subpoenas
 18 Defendants served on the second named inventor, Russell H. Fish, III. [Qureshi Decl. ¶ 6, Ex. C.]

19 Moore also has a documented history of having other interests adverse to Plaintiffs’,
 20 including as a creditor in the Chapter 11 bankruptcy proceedings filed by Technology Properties
 21 Limited. [*In Re Technology Properties Limited LLC*, N.D. Cal. Case No. 5:13bk51589.]

22 Thus Plaintiffs’ naked claim of common-interest privilege is merely an improper attempt
 23 to broadly shelter relevant documents and testimony (Subpoena RFPs 28, 31 and Depo Topics 10,
 24 26) and the nature of the relationship between Plaintiffs and Moore. Plaintiffs cannot hide this
 25 relationship while at the same time relying on it for alleged immunity from producing the
 26 subpoenaed information.

27 **E. Mere Confidentiality Is Not a Basis To Withhold Production**

28 Plaintiffs also attempt to limit the subpoenas to Moore because the sought information “is

1 Plaintiffs' confidential information and not Moore's." [See, e.g., D.I. 89, Mot. at 1:16-17, 7:23-
2 8:2, 8:5-7.]

3 Plaintiffs' claim of confidentiality fails as a basis for withholding discovery. See, e.g.,
4 *Rankine*, 2013 WL 3992963, at *4 ("Given that the stipulated protective order specifically
5 contemplates third-party discovery, and provides that any materials produced during the course of
6 such discovery may be designated "Confidential" or "Attorneys' Eyes Only," the Court finds that
7 the stipulated protective order adequately addresses any concerns alleged by RBC regarding the
8 production of potentially confidential commercial information.") (denying the motion to quash a
9 subpoena). Any of Plaintiffs' purported confidentiality concerns are addressed by the entered
10 protective order that Plaintiffs negotiated and stipulated to with Defendants. Plaintiffs cannot sue
11 seven groups of defendants and then claim confidentiality of Plaintiffs' information—for example,
12 regarding Plaintiffs' settlements or agreements concerning the asserted patents (Depo Topic 27)
13 and bankruptcy proceedings (Topic 32)—to deny Defendants an opportunity to build a defense.

14 **V. CONCLUSION**

15 Based on the above, Plaintiffs' motion should be denied.²

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27 ² To the extent the Court provides any relief to Plaintiffs in terms of limiting the subpoenas to
28 Moore, Moore should be precluded from testifying at trial on any subject matter commensurate
with the scope of that relief.

1 Dated: July 7, 2015

FISH & RICHARDSON P.C.

2
3 By: Wasif Qureshi
Wasif Qureshi

4
5 Michael J. McKeon, *pro hac vice*, mckeon@fr.com
Christian A. Chu (CA SBN 218336), chu@fr.com
6 Richard A. Sterba, *pro hac vice*, sterba@fr.com
FISH & RICHARDSON P.C.
1425 K Street, NW, Suite 1100
7 Washington, DC 20005
Telephone: (202) 783-5070
8 Facsimile: (202) 783-2331

9 Wasif Qureshi, *pro hac vice*, qureshi@fr.com
FISH & RICHARDSON P.C.
10 1221 McKinney Street, Suite 2800
Houston, TX 77010
11 Telephone: (713) 654-5300
12 Facsimile: (713) 652-0109

13 Olga I. May (CA SBN 232012), omay@fr.com
FISH & RICHARDSON P.C.
14 12390 El Camino Real
San Diego, CA 92130
15 Telephone: (858) 678-4745
Facsimile: (858) 678-5099

16 Attorneys for Defendants
17 LG ELECTRONICS, INC. AND LG
ELECTRONICS U.S.A., INC.
18
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20
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26
27
28

1 Dated: July 7, 2015

COOLEY LLP

2
3 By: /s/ Matthew J. Brigham
Matthew J. Brigham

4 Matthew J. Brigham (CA SBN 191428)
5 mbigham@cooley.com
COOLEY LLP
6 3175 Hanover Street
Palo Alto, CA 94304-1130
7 Telephone: (650) 843-5000
Facsimile: (650) 849-7400

8 Stephen R. Smith, *pro hac vice*
9 stephen.smith@cooley.com
COOLEY LLP
10 1299 Pennsylvania Ave., NW, Suite 700
Washington, DC 20004
11 Telephone: (703) 456-8000
Facsimile: (703) 456-8100

12 Attorneys for Defendants
13 NINTENDO CO, LTD. and NINTENDO OF
AMERICA INC.

1 Dated: July 7, 2015

BRINKS GILSON & LIONE

2 /s/ Charles McMahon

3 **McDERMOTT WILL & EMERY**
4 Charles M. McMahon (*Pro Hac Vice*)
5 cmcmahon@mwe.com
6 Hersh H. Mehta (*Pro Hac Vice*)
7 Hmehta@mwe.com
8 227 West Monroe Street
9 Chicago, IL 60606
10 [Tel.] (312) 984-7641
11 [Fax] (312) 984-7700

12 **BRINKS GILSON & LIONE**
13 William H. Frankel (*Pro Hac Vice*)
14 wfrankel@brinksgilson.com
15 Robert S. Mallin (*Pro Hac Vice*)
16 rmallin@brinksgilson.com
17 NBC Tower - Suite 3600
18 455 N. Cityfront Plaza Drive
19 Chicago, Illinois 60611
20 [Tel.] (312) 321-4200
21 [Fax] (312) 321-4299

22 **SHEPPARD MULLIN RICHTER &**
23 **HAMPTON LLP**
24 Scott R. Miller (SBN 112656)
25 SMiller@sheppardmullin.com
26 333 South Hope Street, 43rd Floor
27 Los Angeles, CA 90071-1422
28 [Tel.] (213) 617-4177
[Fax] (213) 443-2817

Attorneys for Defendants
ZTE CORPORATION and ZTE (USA)
INC.

1 Dated: July 7, 2015

DLA PIPER LLP (US)

2
3 By: /s/ Aaron Wainscoat

Aaron Wainscoat

4 Aaron Wainscoat
5 aaron.wainscoat@dlapiper.com
6 DLA PIPER LLP (US)
7 2000 University Circle
8 East Palo Alto, CA 94303
9 Telephone: (650) 833-2001
10 Facsimile: (650) 687-1135

11 Attorneys for Defendants
12 SAMSUNG ELECTRONIC CO., LTD and
13 SAMSUNG ELECTRONICS AMERICA, INC.

14 Dated: July 7, 2015

QUINN EMANUEL URQUHART
& SULLIVAN LLP

15 By: /s/ David Eiseman

David Eiseman

16 David Eiseman
17 davideiseman@quinnemanuel.com
18 QUINN EMANUEL URQUHART &
19 SULLIVAN LLP
20 50 California Street, 22nd Floor
21 San Francisco, CA 94111
22 Telephone: (415) 875-6600
23 Facsimile: (415) 875-6700

24 Attorneys for Defendants
25 BARNES & NOBLE, INC.

1 Dated: July 7, 2015

STEPTOE & JOHNSON LLP

2
3 By: /s/ William F. Abrams

William F. Abrams

4 William F. Abrams (CA SBN 88805)

wabrams@steptoe.com

5 STEPTOE & JOHNSON LLP

1001 Page Mill Road

6 Suite 150, Building 4

Palo Alto CA 94304

7 Telephone: (650) 687-9501

8 Facsimile: (650) 687-9494

9 Timothy C. Bickham, *pro hac vice*

tbickham@steptoe.com

10 STEPTOE & JOHNSON LLP

1330 Connecticut Avenue NW

11 Washington, DC 20036

Telephone: (202) 429-5517

12 Facsimile: (202) 429-3902

13 Attorneys for Defendants

HUAWEI TECHNOLOGIES CO., LTD.,

14 HUAWEI DEVICE CO., LTD., HUAWEI

DEVICE USA INC., FUTUREWEI

15 TECHNOLOGIES, INC., and HUAWEI

TECHNOLOGIES USA INC.

17 Dated: July 7, 2015

TURNER BOYD LLP

18
19 By: /s/ Jennifer Seraphine

Jennifer Seraphine

20 Jennifer Seraphine (CA SBN 245463)

seraphine@turnerboyd.com

21 Joshua M. Masur (CA SBN 203510)

masur@turnerboyd.com

22 TURNER BOYD LLP

702 Marshall Street, Suite 640

23 Redwood City, CA 94063

24 Telephone: (650) 521-5930

Facsimile: (650) 521-5931

25 Attorneys for Defendants

26 GARMIN INTERNATIONAL, INC., and

GARMIN USA, INC.

1 Michael J. McKeon (*Pro Hac Vice*), mckeon@fr.com
Christian A. Chu (SBN 218336), chu@fr.com
2 Richard A. Sterba (*Pro Hac Vice*), sterba@fr.com
FISH & RICHARDSON P.C.
3 1425 K Street, NW, Suite 1100
Washington, DC 20005
4 Telephone: (202) 783-5070
Facsimile: (202) 783-2331

5 Wasif Qureshi (*Pro Hac Vice*), qureshi@fr.com
6 FISH & RICHARDSON P.C.
1221 McKinney Street, Suite 2800
7 Houston, TX 77010
Telephone: (713) 654-5300
8 Facsimile: (713) 652-0109

9 Olga I. May (SBN 232012), omay@fr.com
FISH & RICHARDSON P.C.
10 12390 El Camino Real
San Diego, CA 92130
11 Telephone: (858) 678-4745
Facsimile: (858) 678-5099

12 Attorneys for Defendants
13 LG ELECTRONICS, INC. and LG ELECTRONICS U.S.A., INC.

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN JOSE DIVISION

17 TECHNOLOGY PROPERTIES LIMITED
18 LLC, PHOENIX DIGITAL SOLUTIONS LLC,
and PATRIOT SCIENTIFIC CORPORATION,

19 Plaintiffs,

20 v.

21 LG ELECTRONICS, INC. AND LG
22 ELECTRONICS U.S.A., INC.,

23 Defendants.

Case No. 3:12-cv-03880-VC (PSG)

**DECLARATION OF WASIF QURESHI IN
SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFFS' MOTION
TO LIMIT DEFENDANTS' SUBPOENAS
TO THIRD PARTY CHARLES MOORE
OR, ALTERNATIVELY, FOR A
PROTECTIVE ORDER**

24 DATE: August 11, 2015
25 TIME: 10:00 a.m.
26 JUDGE: Hon. Paul S. Grewal
DEPT. Courtroom 5, 4th Floor

1 TECHNOLOGY PROPERTIES LTD. LLC, et
al.,
2 Plaintiffs,
3 v.
4 BARNES & NOBLE, INC.,
5 Defendant.

Case No.: 3:12-CV-03863-VC (PSG)

6 TECHNOLOGY PROPERTIES LIMITED
7 LLC, PHOENIX DIGITAL SOLUTIONS
8 LLC, and PATRIOT SCIENTIFIC
9 CORPORATION,

Case No. 3:12-cv-03870-VC (PSG)

10 Plaintiffs,

11 v.

12 GARMIN LTD., GARMIN
13 INTERNATIONAL, INC., AND GARMIN
14 USA, INC.,

15 Defendants.

16 TECHNOLOGY PROPERTIES LIMITED
17 LLC, PHOENIX DIGITAL SOLUTIONS
18 LLC, and PATRIOT SCIENTIFIC
19 CORPORATION,

Case No. 2:12-cv-03865-VC (PSG)

20 Plaintiffs,

21 v.

22 HUAWEI TECHNOLOGIES CO., LTD. and
23 HUAWEI NORTH AMERICA,

24 Defendants.

25 TECHNOLOGY PROPERTIES LIMITED
26 LLC, PHOENIX DIGITAL SOLUTIONS
27 LLC, and PATRIOT SCIENTIFIC
CORPORATION,

Case No. 3:12-cv-03876-VC (PSG)

28 Plaintiffs,

v.

ZTE CORPORATION and ZTE (USA)
INC.,

Defendants.

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TECHNOLOGY PROPERTIES LIMITED
LLC, PHOENIX DIGITAL SOLUTIONS
LLC, and PATRIOT SCIENTIFIC
CORPORATION,

Plaintiffs,

v.

SAMSUNG ELECTRONICS CO., LTD. and
SAMSUNG ELECTRONICS AMERICA,
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Defendants.

Case No. 3:12-cv-03877-VC (PSG)

TECHNOLOGY PROPERTIES LIMITED
LLC, PHOENIX DIGITAL SOLUTIONS
LLC, and PATRIOT SCIENTIFIC
CORPORATION,

Plaintiffs,

v.

NINTENDO CO., LTD. and NINTENDO OF
AMERICA INC.,

Defendants.

Case No. 3:12-cv-03881-VC (PSG)

1 I, Wasif Qureshi, declare as follows:

2 1. I am an attorney in the law firm of Fish & Richardson P.C., counsel of record for
3 Defendants LG Electronics, Inc. (collectively and individually "LG") in the above-captioned
4 matter. I have personal knowledge of all the facts contained herein and, if called as a witness, I
5 could and would testify competently thereto.

6 2. On June 9, 2015, Defendants in the above-captioned cases served Plaintiffs with a
7 Notice of Subpoenas for Production of Documents and Deposition to Charles H. Moore. After
8 several unsuccessful attempts to serve Moore with the subpoenas and receiving no
9 acknowledgement from Moore's attorney in response to Defendants' requests to accept service for
10 Moore, Defendants were finally able to personally serve Moore on June 22.

11 3. On June 23, Plaintiffs served objections to the subpoenas. On the same day,
12 without any attempt to meet and confer with Defendants, Plaintiffs filed the present motion to
13 limit the subpoenas or, alternatively, for a protective order.

14 4. Moore is represented by Kenneth Prochnow with respect to Defendants' subpoenas.
15 To date, neither Moore nor Prochnow has served any objections to the subpoenas. During
16 discussions regarding the subpoenas, Prochnow stated that he will review Moore's documents
17 prior to production and will prepare and provide a privilege log, if necessary. Attached as Exhibit
18 A is a true and correct copy of Prochnow's email regarding these discussions.

19 5. Moore's deposition is scheduled for July 15, 2015. Attached as Exhibit B is a true
20 and correct copy of the Moore Deposition Notice served on Plaintiffs.

21 6. On June 10, Defendants served Plaintiffs with a Notice of Subpoenas for
22 Production of Documents and Deposition to Russell H. Fish, III, the second inventor named on the
23 asserted patents. On June 11, Defendants served the subpoenas on Fish. Attached as Exhibit C is a
24 true and correct copy of the served notice and subpoenas. The subpoenas to Fish are substantively
25 identical to the subpoenas to Moore. Although on June 24, Plaintiffs served objections to the Fish
26 subpoenas, to date, Plaintiffs have not moved to limit the Fish subpoenas or for a protective order.

1 I declare under the penalty of perjury of the laws of the United States of America that the
2 foregoing is true and correct. Executed on July 7, 2015, in Houston, Texas.

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6 Wasif Qureshi

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Exhibit A

From: Wasif Qureshi
Sent: Thursday, July 02, 2015 4:43 PM
To: 'Kenneth Prochnow'
Cc: terisa@chilesprolaw.com
Subject: RE: TPL/LG: subpoena service Charles H. Moore

Ken –

We'll send out a notice confirming the depo date and location.

As far as prior testimony, those are Mr. Moore's transcripts requested in our subpoena (RFP No. 12). Further in that regard, I have attached the entered Protective Order in our case that covers production and use of Mr. Moore's past transcripts.

Regards,

Wasif Qureshi | Principal
FISH.
FISH & RICHARDSON

From: Kenneth Prochnow [<mailto:kprochnow@chilesprolaw.com>]
Sent: Thursday, July 02, 2015 2:44 PM
To: Wasif Qureshi
Cc: terisa@chilesprolaw.com
Subject: Re: TPL/LG: subpoena service Charles H. Moore

Let's try this again:

Wasif:

I regret my being called away to attend to other matters over the past several days.

1. Mr Moore will be available on July 15, in Redwood City if that's convenient for all.
2. I will be setting aside time to work my way through the documents he has provided to me. You will have the documents and my privilege list on Monday.
3. I need to understand what prior testimony transcripts we are discussing but on principle I'm a fan of not reinventing the wheel on past testimony. I will get back to you with as cooperative a stance as I can manage after the holiday.

We will talk next week.

Best-
Ken

On Thursday, July 2, 2015, Wasif Qureshi <Qureshi@fr.com> wrote:

Ken – I am following up on my email below. Also, I don't show that we received any production yesterday – the July 1 extended date I agreed to for you – from Mr. Moore in response to defendants' subpoena.

Please respond to me today on these issues.

Regards,

Wasif Qureshi | Principal



From: Wasif Qureshi
Sent: Wednesday, July 01, 2015 7:59 PM
To: 'Kenneth Prochnow'
Cc: 'Robert Chiles'; 'barry@nelbum.com'
Subject: RE: TPL/LG: subpoena service Charles H. Moore

Ken – I'm following up on my call to you earlier today.

Please confirm July 15 for Mr. Moore's deposition.

Further, please confirm Mr. Moore's consent that information previously designated by him (or on his behalf) (e.g., prior testimony, exhibits, documents, etc.) may be used by defendants in the pending NDCA district court actions. We raised this with plaintiffs' counsel as early as May 19, 2015, and to date, we do not have confirmation.

Regards,

Wasif Qureshi | Principal



From: Wasif Qureshi
Sent: Friday, June 26, 2015 6:04 PM
To: 'Kenneth Prochnow'
Cc: 'Robert Chiles'; barry@nelbum.com
Subject: RE: TPL/LG: subpoena service Charles H. Moore

Ken –

Thanks for your e-mail. We can host the deposition at Fish's Silicon Valley office (500 Arguello St, Redwood City, CA 94063). Please let me know if you have a preferred start time. I will send out an updated notice next week.

We will try our best to keep the deposition to one day.

Have a good weekend.

Best,

Wasif Qureshi | Principal



From: Kenneth Prochnow [<mailto:kprochnow@chilesprolaw.com>]
Sent: Friday, June 26, 2015 4:34 PM
To: Wasif Qureshi
Cc: 'Robert Chiles'; barry@nelbum.com
Subject: RE: TPL/LG: subpoena service Charles H. Moore

Wasif:

Thank you for your call yesterday (Thursday, June 25). This email will confirm that I am working to produce Mr. Moore for deposition on Wednesday, July 15, 2015, a continued date from the nominal July 7th date and time set out in your subpoena. We are tentatively thinking of a Silicon Valley / San Francisco location for what I understand will be a one-day deposition.

On document production, you graciously agreed to extend Mr. Moore's time to respond to the subpoena's request for documents to and through next Wednesday, July 1, 2015. I anticipate producing documents at that time, with a privilege log to follow as promptly as possible.

I thank you again for your cooperation and look forward to working with you to complete Mr. Moore's deposition.

Best-
Ken

Kenneth H Prochnow

From: Wasif Qureshi [<mailto:Qureshi@fr.com>]
Sent: Tuesday, June 23, 2015 12:14 PM
To: Alma Truax-Padilla; kprochnow@chilesprolaw.com
Cc: Olga May
Subject: RE: TPL/LG: subpoena service Charles H. Moore

Ken – I understand Mr. Moore has been served with the subpoena attached below. Please confirm that Mr. Moore will be available for deposition on July 7 as indicated on the subpoena. Otherwise, please let me know what other dates in early July Mr. Moore is available for deposition.

I look forward to hearing back from you.

Regards,

Wasif Qureshi | Principal



Exhibit B

1 (Counsel listed on signature page)

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

TECHNOLOGY PROPERTIES LIMITED LLC,
PHOENIX DIGITAL SOLUTIONS LLC, and
PATRIOT SCIENTIFIC CORPORATION,

Plaintiffs,

v.

LG ELECTRONICS, INC. AND LG
ELECTRONICS U.S.A., INC.,

Defendants.

3:12-cv-03880-VC

**DEFENDANTS' NOTICE OF
DEPOSITION OF CHARLES H. MOORE**

Honorable Vince Chhabria
Honorable Paul S. Grewal

1 TECHNOLOGY PROPERTIES LTD. LLC, et
al.,
2 Plaintiffs,
3 v.
4 BARNES & NOBLE, INC.,
5 Defendant.

Case No.: 3:12-CV-03863-VC

6 TECHNOLOGY PROPERTIES LIMITED
7 LLC, PHOENIX DIGITAL SOLUTIONS
8 LLC, and PATRIOT SCIENTIFIC
9 CORPORATION,
10 Plaintiffs,
11 v.
12 GARMIN LTD., GARMIN
13 INTERNATIONAL, INC., AND GARMIN
14 USA, INC.,
15 Defendants.

Case No. 3:12-cv-03870-VC (PSG)

14 TECHNOLOGY PROPERTIES LIMITED
15 LLC, PHOENIX DIGITAL SOLUTIONS
16 LLC, and PATRIOT SCIENTIFIC
17 CORPORATION,
18 Plaintiffs,
19 v.
20 HUAWEI TECHNOLOGIES CO., LTD. and
21 HUAWEI NORTH AMERICA,
22 Defendants.

Case No. 2:12-cv-03865-VC (PSG)

22 TECHNOLOGY PROPERTIES LIMITED
23 LLC, PHOENIX DIGITAL SOLUTIONS
24 LLC, and PATRIOT SCIENTIFIC
25 CORPORATION,
26 Plaintiffs,
27 v.
28 ZTE CORPORATION and ZTE (USA)
INC.,
Defendants.

Case No. 3:12-cv-03876-VC (PSG)

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TECHNOLOGY PROPERTIES LIMITED
LLC, PHOENIX DIGITAL SOLUTIONS
LLC, and PATRIOT SCIENTIFIC
CORPORATION,

Plaintiffs,

v.

SAMSUNG ELECTRONICS CO., LTD. and
SAMSUNG ELECTRONICS AMERICA,
INC.,

Defendants.

Case No. 3:12-cv-03877-VC (PSG)

TECHNOLOGY PROPERTIES LIMITED
LLC, PHOENIX DIGITAL SOLUTIONS
LLC, and PATRIOT SCIENTIFIC
CORPORATION,

Plaintiffs,

v.

NINTENDO CO., LTD. and NINTENDO OF
AMERICA INC.,

Defendants.

Case No. 3:12-cv-03881-VC (PSG)

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that, pursuant to Rules 26, 30, and 45 of the Federal Rules of
3 Civil Procedure, Defendants in the above-captioned cases, by and through their attorneys, will take
4 the deposition of Charles H. Moore. The deposition will commence on July 15, 2015 at 9:00 a.m.,
5 at the offices of Fish & Richardson P.C., 500 Arguello Street, Suite 500, Redwood City, CA
6 94063, telephone number (650) 839-5070, before a Notary Public or other officer duly authorized
7 to administer oaths. The deposition will continue from day to day until concluded, or may be
8 continued until completed at a future date or dates.

9 The deposition will be recorded by stenographic, video, and audio means. The
10 stenographic record may be displayed in real time.

11 Dated: July 2, 2015

Respectfully,
FISH & RICHARDSON P.C.

13 By: /s/ Wasif Qureshi
14 Wasif Qureshi

15 Michael J. McKeon, *pro hac vice*, mckeon@fr.com
16 Christian A. Chu (CA SBN 218336), chu@fr.com
17 Richard A. Sterba, *pro hac vice*, sterba@fr.com
FISH & RICHARDSON P.C.
1425 K Street, NW, Suite 1100
Washington, DC 20005
18 Telephone: (202) 783-5070
Facsimile: (202) 783-2331

19 Wasif Qureshi, *pro hac vice*, qureshi@fr.com
20 FISH & RICHARDSON P.C.
1221 McKinney Street, Suite 2800
21 Houston, TX 77010
Telephone: (713) 654-5300
22 Facsimile: (713) 652-0109

23 Olga I. May (CA SBN 232012), omay@fr.com
24 FISH & RICHARDSON P.C.
12390 El Camino Real
25 San Diego, CA 92130
Telephone: (858) 678-4745
26 Facsimile: (858) 678-5099

27 Attorneys for Defendants
LG ELECTRONICS, INC. AND LG
28 ELECTRONICS U.S.A., INC.

1 Dated: July 2, 2015

COOLEY LLP

2
3 By: /s/ Matthew J. Brigham
Matthew J. Brigham

4 Matthew J. Brigham (CA SBN 191428)
5 mbrigham@cooley.com
COOLEY LLP
6 3175 Hanover Street
Palo Alto, CA 94304-1130
7 Telephone: (650) 843-5000
Facsimile: (650) 849-7400

8 Stephen R. Smith, *pro hac vice*
9 stephen.smith@cooley.com
COOLEY LLP
10 1299 Pennsylvania Ave., NW, Suite 700
Washington, DC 20004
11 Telephone: (703) 456-8000
Facsimile: (703) 456-8100

12 Attorneys for Defendants
13 NINTENDO CO, LTD. and NINTENDO OF
AMERICA INC.
14
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1 Dated: July 2, 2015

BRINKS GILSON & LIONE

2
3 By: /s/ Robert Mallin
Robert Mallin

4 William H. Frankel, *pro hac vice*
5 wfrankel@brinksgilson.com
6 Robert Mallin, *pro hac vice*
7 rmallin@brinksgilson.com
8 Charles McMahon, *pro hac vice*
9 cmcmahon@brinksgilson.com
10 Hersh Mehta, *pro hac vice*
11 hmehta@brinksgilson.com
12 BRINKS GILSON & LIONE
13 NBC Tower, Suite 3600
14 455 N. Cityfront Plaza Drive
15 Chicago, IL 60611
16 Telephone: (312) 321-4200
17 Facsimile: (312) 321-4299

18 and

19 Scott Robertson Miller
20 smiller@sheppardmullin.com
21 SHEPPARD MULLIN RICHTER &
22 HAMPTON LLP
23 333 South Hope Street, 43rd Floor
24 Los Angeles, CA 90071
25 Telephone: (213) 617-4177
26 Facsimile: (213) 620-1398

27 and

28 Jay H. Reiziss
jreiziss@mwe.com; ZTE-TPL@mwe.com
MCDERMOTT WILL & EMERY
500 North Capital Street, NW
Washington, DC 20001
Telephone: (202) 756-8646
Facsimile: (202) 756-8087

Attorneys for Defendants
ZTE CORPORATION AND ZTE (USA) INC.

1 Dated: July 2, 2015

DLA PIPER LLP (US)

2
3 By: /s/ Aaron Wainscoat

Aaron Wainscoat

4 Aaron Wainscoat
5 aaron.wainscoat@dlapiper.com
6 DLA PIPER LLP (US)
7 2000 University Circle
8 East Palo Alto, CA 94303
9 Telephone: (650) 833-2001
10 Facsimile: (650) 687-1135

11 Attorneys for Defendants
12 SAMSUNG ELECTRONIC CO., LTD and
13 SAMSUNG ELECTRONICS AMERICA, INC.

14 Dated: July 2, 2015

QUINN EMANUEL URQUHART
& SULLIVAN LLP

15 By: /s/ David Eiseman

David Eiseman

16 David Eiseman
17 davideiseman@quinnemanuel.com
18 QUINN EMANUEL URQUHART &
19 SULLIVAN LLP
20 50 California Street, 22nd Floor
21 San Francisco, CA 94111
22 Telephone: (415) 875-6600
23 Facsimile: (415) 875-6700

24 Attorneys for Defendants
25 BARNES & NOBLE, INC.

1 Dated: July 2, 2015

STEPTOE & JOHNSON LLP

2
3 By: /s/ Timothy C. Bickham
Timothy C. Bickham

4 William F. Abrams (CA SBN 88805)
5 wabrams@steptoe.com
STEPTOE & JOHNSON LLP
6 1001 Page Mill Road
Suite 150, Building 4
7 Palo Alto CA 94304
Telephone: (650) 687-9501
8 Facsimile: (650) 687-9494

9 Timothy C. Bickham, *pro hac vice*
10 tbickham@steptoe.com
STEPTOE & JOHNSON LLP
11 1330 Connecticut Avenue NW
Washington, DC 20036
Telephone: (202) 429-5517
12 Facsimile: (202) 429-3902

13 Attorneys for Defendants
HUAWEI TECHNOLOGIES CO., LTD.,
14 HUAWEI DEVICE CO., LTD., HUAWEI
DEVICE USA INC., FUTUREWEI
15 TECHNOLOGIES, INC., and HUAWEI
TECHNOLOGIES USA INC.

17 Dated: July 2, 2015

TURNER BOYD LLP

18
19 By: /s/ Jennifer Seraphine
Jennifer Seraphine

20 Jennifer Seraphine (CA SBN 245463)
21 seraphine@turnerboyd.com
Joshua M. Masur (CA SBN 203510)
22 masur@turnerboyd.com
TURNER BOYD LLP
23 702 Marshall Street, Suite 640
Redwood City, CA 94063
24 Telephone: (650) 521-5930
Facsimile: (650) 521-5931

25 Attorneys for Defendants
26 GARMIN INTERNATIONAL, INC., and
GARMIN USA, INC.

PROOF OF SERVICE

I am employed in the County of San Diego. My business address is Fish & Richardson P.C., 12390 El Camino Real, San Diego, California 92130. I am over the age of 18 and not a party to the foregoing action. I am readily familiar with the business practice at my place of business for collection and processing of correspondence for personal delivery, for mailing with United States Postal Service, for facsimile, and for overnight delivery by Federal Express, Express Mail, or other overnight service.

On July 2, 2015, I caused a copy of the foregoing document to be served on the interested parties in this action by attaching a PDF version of the document to an email message addressed as follows:

William L. Bretschneider; wlb@svlg.com
Michael W. Stebbins; mws@svlg.com
SILICON VALLEY LAW GROUP
50 W. San Fernando Street, Suite 750
San Jose, CA 95113
Telephone: (408) 573-5700
Facsimile: (408) 573-5701

Attorneys for Plaintiff
TECHNOLOGY PROPERTIES
LIMITED LLC

Brent N. Bumgardner; brent@nelbum.com
Barry J. Bumgardner; barry@nelbum.com
Thomas C. Cecil; tom@nelbum.com
Edward R. Nelson, III; ed@nelbum.com
Stacie Greskowiak McNulty; stacie@nelbum.com
John P. Murphy; murphy@nelbum.com
NELSON BUMGARDNER, P.C., PDS@nelbum.com
3131 West 7th Street, Suite 300
Fort Worth, TX 76107
Telephone: (817) 377-9111
Facsimile: (817) 377-3485

Attorneys for Plaintiff
PHOENIX DIGITAL SOLUTIONS
LLC

Christopher D. Banys; cdb@banyspc.com
Jennifer L. Gilbert; jlg@banyspc.com
Christopher J. Judge; cjj@banyspc.com
Richard C. Lin; rcl@banyspc.com
BANYS, P.C.
1032 Elwell Court, Suite 100
Palo Alto, CA 94303
Telephone: (650) 308-5805
Facsimile: (650) 353-2202

1 Eric M. Albritton
2 Email: ema@emafirm.com
3 ALBRITTON LAW FIRM
4 P.O. Box 2649
5 Longview, TX 75606
6 Telephone: (903) 757-8449

5 Charles T. Hoge; choge@knlh.com
6 KIRBY NOONAN LANCE & HOGE LLP
7 350 Tenth Avenue, Suite 1300
8 San Diego, CA 92101
9 Telephone: (619) 231-8666
10 Facsimile: (619) 231-9593

Attorney for Plaintiff
PATRIOT SCIENTIFIC
CORPORATION

9 Kenneth H. Prochnow, kprochnow@chilesprolaw.com
10 CHILES AND PROCHNOW, LLP
11 2600 El Camino Real, Suite 412
12 Palo Alto, California 94306-1719
13 Telephone: (650) 812-0400
14 Facsimile: (650) 812-0404

Attorney for Charles H. Moore

14 **ELECTRONIC MAIL:** Such document was transmitted by electronic mail to the addressees' email addresses above.

15
16 I declare that I am employed in the office of a member of the bar of this Court at whose
17 direction the service was made. I declare under penalty of perjury that the above is true and
18 correct. Executed on July 2, 2015, at San Diego, California

19 /s/ Alma Truax-Padilla
20 Alma Truax-Padilla

Exhibit C

1 (counsel listed on signature page)

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

TECHNOLOGY PROPERTIES LIMITED
LLC, et al.,

Plaintiffs

v.

ZTE CORPORATION, et al.,

Defendants.

Case No. 3:12-cv-03876-VC (PSG)

**DEFENDANTS' NOTICE OF
SUBPOENAS TO RUSSELL H. FISH**

Honorable Vince Chhabria
Honorable Paul S. Grewal

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TECHNOLOGY PROPERTIES LIMITED
LLC, et al.,

Plaintiffs

v.

BARNES & NOBLE, INC.,

Defendants.

Case No. 3:12-cv-03863-VC (PSG)

TECHNOLOGY PROPERTIES LIMITED
LLC, et al.,

Plaintiffs

v.

GARMIN LTD., et al.,

Defendants.

Case No. 3:12-cv-03870-VC (PSG)

TECHNOLOGY PROPERTIES LIMITED
LLC, et al.,

Plaintiffs

v.

HUAWEI TECHNOLOGIES CO., LTD., et al.,

Defendants.

Case No. 3:12-cv-03865-VC (PSG)

TECHNOLOGY PROPERTIES LIMITED
LLC, et al.,

Plaintiffs

v.

SAMSUNG ELECTRONICS CO., LTD., et al.,

Defendants.

Case No. 3:12-cv-03877-VC (PSG)

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TECHNOLOGY PROPERTIES LIMITED
LLC, et al.,

Plaintiffs

v.

NOVATEL WIRELESS, INC.,

Defendant.

Case No. 3:12-cv-03879-VC (PSG)

TECHNOLOGY PROPERTIES LIMITED
LLC, et al.,

Plaintiffs

v.

LG ELECTRONICS, INC., et al.,

Defendants.

Case No. 3:12-cv-03880-VC (PSG)

TECHNOLOGY PROPERTIES LIMITED
LLC, et al.,

Plaintiffs

v.

NINTENDO CO., LTD, et al.

Defendants.

Case No. 3:12-cv-03881-VC (PSG)

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that, pursuant to Rule 45 of the Federal Rules of Civil Procedure, Russell H. Fish is being served with the attached subpoenas to produce documents and appear for deposition at the time, date, and location indicated in the subpoenas, or at such other time, date, and location as may be agreed upon.

Dated: June 10, 2015

Respectfully submitted,

BRINKS GILSON & LIONE

/s/ Hersh H. Mehta

Hersh H. Mehta

BRINKS GILSON & LIONE

William H. Frankel

Robert S. Mallin

Charles M. McMahon

Hersh H. Mehta

Attorneys for Defendants,

ZTE CORPORATION and ZTE (USA) INC.

QUINN EMANUEL URQUHART & SULLIVAN

/s/ David Eiseman

David Eiseman

50 California Street, 22nd Floor

San Francisco, CA 94111

Telephone: (415) 875-6600

Attorneys for Defendant

BARNES & NOBLE, INC.

STEPTOE & JOHNSON LLP

/s/ Timothy C. Bickham

Timothy C. Bickham

Attorneys for Defendants

HUAWEI TECHNOLOGIES CO., LTD.,

HUAWEI DEVICE CO., LTD.,

HUAWEI DEVICE USA INC.,

FUTUREWEI TECHNOLOGIES, INC., and

HUAWEI TECHNOLOGIES USA INC.

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DLA PIPER LLP (US)

/s/ Aaron Wainscoat
Aaron Wainscoat
2000 University Avenue
East Palo Alto, CA 94303
Telephone: (650) 833-2000

Attorneys for Defendants
SAMSUNG ELECTRONIC CO., LTD and
SAMSUNG ELECTRONICS AMERICA, INC.

FISH & RICHARDSON P.C.

/s/ Olga May
Olga I. May
12390 El Camino Real
San Diego, CA 92130
Telephone: (858) 678-4745

Attorneys for Defendants
LG ELECTRONICS, INC. and
LG ELECTRONICS USA. INC.

COOLEY LLP

/s/ Matthew J. Brigham
Matthew J. Brigham

Matthew J. Brigham, SBN 191428
mbrigham@cooley.com
3175 Hanover Street
Palo Alto, CA 94304-1130
Telephone: (650) 843-5000
Facsimile: (650) 849-7400

Stephen R. Smith, *pro hac vice*
stephen.smith@cooley.com
1299 Pennsylvania Ave., NW
Suite 700
Washington, DC 20004
Telephone: (703) 456-8000
Facimile: (703) 456-8100

Attorneys for Defendants
NINTENDO CO, LTD. and NINTENDO OF
AMERICA INC.

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PAUL HASTINGS LLP

/s/ Christopher W. Kennerly
Christopher W. Kennerly

Christopher W. Kennerly (SB# 255932)
chriskennerly@paulhastings.com
Elizabeth L. Brann (SB# 222873)
elizabethbrann@paulhastings.com
PAUL HASTINGS LLP
1117 S. California Avenue
Palo Alto, CA 94304-1106
Telephone: (650) 320-1800
Facsimile: (650) 320-1900

Attorneys for Defendants
NOVATEL WIRELESS INC.

TURNER BOYD LLP

/s/ Jennifer Seraphine
Jennifer Seraphine

Jennifer Seraphine (State Bar No. 245463)
seraphine@turnerboyd.com
702 Marshall St., Suite 640
Redwood City, CA 94063
Telephone: (650) 521-5930
Facsimile: (650) 521-5931

Attorneys for Defendants
GARMIN INTERNATIONAL, INC. and
GARMIN USA, INC.

PROOF OF SERVICE

On June 10, 2015, I caused a copy of the foregoing document to be served on the interested parties in this action as follows:

Brent N. Bumgardner Attorneys for Plaintiff Phoenix Digital Solutions LLC
Email: brent@nelbum.com

Barry J. Bumgardner
Email: barry@nelbum.com

Thomas C. Cecil
Email: tom@nelbum.com

Edward R. Nelson, III
Email: ed@nelbum.com

NELSON BUMGARDNER, P.C.
3131 West 7th Street, Suite 300
Fort Worth, TX 76107
Telephone: (817) 377-9111
Facsimile: (817) 377-3485

Christopher D. Banys Attorneys for Plaintiff Phoenix Digital Solutions LLC
Email: cdb@banyspc.com

Jennifer L. Gilbert
Email: jlg@banyspc.com

BANYS, P.C.
1032 Elwell Court, Suite 100
Palo Alto, CA 94303
Telephone: (650) 308-5805
Facsimile: (650) 353-2202

Michael W. Stebbins Attorneys for Plaintiff
Email: mws@svlg.com Technology Properties Limited LLC

William L. Bretschneider
Email: wlb@svlg.com
SILICON VALLEY LAW GROUP
50 W. San Fernando Street, Suite 750
San Jose, CA 95113
Telephone: (408) 573-5700
Facsimile: (408) 573-5701

Charles T. Hoge Attorney for Plaintiff
Email: choge@knlh.com Patriot Scientific Corporation

Attorney at Law
350 Tenth Avenue, Suite 1300
San Diego, CA 92101
Telephone: (619) 231-8666
Facsimile: (619) 231-9593

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ELECTRONIC MAIL: The document was transmitted by electronic mail to the above addresses.

I declare under penalty of perjury that the above is true and correct.

/s/ Hersh H. Mehta
Hersh H. Mehta

UNITED STATES DISTRICT COURT
for the
Northern District of California

See list of cases and parties in Attachment A

Plaintiff

v.

See list of cases and parties in Attachment A

Defendant

Civil Action No. See list of cases in Att. A

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: Russell H. Fish

(Name of person to whom this subpoena is directed)

Production: **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment B.

Place: 1717 Main St., Suite 500, Dallas, TX 75201	Date and Time: 06/29/2015 9:00 am
---	--

Inspection of Premises: **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 06/10/2015

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

*/s/ Hersh Mehta
Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____
ZTE Corporation and ZTE (USA) Inc. _____, who issues or requests this subpoena, are:
Hersh Mehta, NBC Tower - Suite 3600, 455 N. Cityfront Plaza Dr., Chicago, IL 60611

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. See list of cases in Att. A

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

This subpoena is issued in the following cases pending in the United States District Court for the Northern District of California:

- *Technology Properties Ltd., et al. v. Barnes & Noble, Inc.*; Case No. 3:12-cv-03863
- *Technology Properties Ltd., et al. v. Huawei Tech. Co., Ltd., et al.*; Case No. 2:12-cv-03865
- *Technology Properties Ltd., et al. v. Garmin Ltd. et al.*; Case No. 3:12-cv-03870
- *Technology Properties Ltd., et al. v. ZTE Corporation et al.*; Case No. 3:12-cv-03876
- *Technology Properties Ltd., et al. v. Samsung Elec. Co. et al.*; Case No. 3:12-cv-03877
- *Technology Properties Ltd., et al. v. Novatel Wireless, Inc.*; Case No. 3:12-cv-03879
- *Technology Properties Ltd., et al. v. LG Electronics, Inc. et al.*; Case No. 3:12-cv-03880
- *Technology Properties Ltd., et al. v. Nintendo Co., Ltd. et al.*; Case No. 3:12-cv-03881

ATTACHMENT B

DEFINITIONS

1. “You,” “Your,” and “Yours” means Russell H. Fish.
2. “Plaintiffs” means Plaintiffs Technology Properties Limited LLC, Phoenix Digital Solutions LLC, and Patriot Scientific Corporation, both individually and in any combination, including past and present officers, directors, employees, agents, consultants, predecessors, subsidiaries, parents, affiliates, and contractors.
3. “Asserted Patents” means any one or more of United States Patent Nos. 5,440,749 (“the ’749 patent”), 5,530,890 (“the ’890 patent”), and 5,809,336 (the ’336 patent”), together with any patents Plaintiffs may later attempt to assert in this action.
4. “Asserted Claims” means: claims 1, 43 and 59 of the ’749 patent; claims 7, 9, 11, 12, 13, 17 and 19 of the ’890 patent; and claims 6, 7, 9, 13, 14, and 15 of the ’336 patent, together with any claims Plaintiffs may later attempt to assert in this action.
5. “Prior Art” means anything that constitutes prior art under any subsection of 35 U.S.C. § 102 or § 103, including, without limitation, any publication, patent, use, sale, offer for sale, prior invention, knowledge, or other activity.
6. “Document(s)” is used in the broadest sense to include everything contemplated by Rule 34(a)(1)(A) of the Federal Rules of Civil Procedure and by Rule 1001 of the Federal Rules of Evidence. If a draft Document has been prepared in several copies that are not identical, or if the original identical copies are no longer identical due to subsequent notation, each non-identical Document is a separate Document.
7. “Thing(s)” is used in the broadest sense to include everything contemplated by Rule 34(a)(1)(B) of the Federal Rules of Civil Procedure.

8. “Person” or “Entity” and their plural forms include, without limitation, natural persons, partnerships, corporations, associations, and any other legal entities and units thereof.

9. “Communication” means any transmission of information, whether oral or in writing, including drafts.

10. “Relating to” and “concerning” are used in its broadest sense to include any connection, relation, or relevance.

11. The words “and” and “or” shall be construed conjunctively or disjunctively, whichever makes the request most inclusive.

12. “Related Proceedings” means cases alleging infringement or seeking declaratory judgment of non-infringement of one or more of the Asserted Patents, including, without limitation:

- a. In the Matter of Certain Wireless Consumer Electronics Devices and Components Thereof, United States International Trade Commission Proceeding No. 337-TA-853;
- b. Sirius XM Radio Inc. v. Technology Properties Ltd. et al, Case No. 3-10-cv-00816, United States District Court for the Northern District of California;
- c. Sirius XM Radio Inc. v. Technology Properties Ltd., et al., 1-09-cv-04083, United States District Court for the Southern District of New York;
- d. Technology Properties Limited et al. v. Acer Inc., et al., Case No. 2-08-cv-00176, United States District Court for the Eastern District of Texas;
- e. Technology Properties Limited et al. v. ASUSTeK Computer, Inc., Case No. 2-08-cv-00177, United States District Court for the Eastern District of Texas;

- f. Technology Properties Limited et al. v. HTC Corporation et al., Case No. 2-08-cv-00172, United States District Court for the Eastern District of Texas;
- g. Acer, Inc. et al. v. Technology Properties Limited et al., Case No. 5-08-cv-00877, United States District Court for the Northern District of California;
- h. HTC Corporation et al. v. Technology Properties Limited et al., Case No. 5-08-cv-00882, United States District Court for the Northern District of California;
- i. Asustek Computer Inc. v. Technology Properties Limited et al., Case No. 5-08-cv-00884 United States District Court for the Northern District of California;
- j. Toshiba America, Inc. et al. v. Patriot Scientific Corporation et al., Case No. 3-05-cv-04838, United States District Court for the Northern District of California;
- k. JVC Americas Corporation v. Patriot Scientific Corporation et al., Case No. 3-05-cv-04845, United States District Court for the Northern District of California;
- l. Panasonic Corporation of North America et al. v. Patriot Scientific Corporation et al., Case No. 3-05-cv-04844, United States District Court for the Northern District of California;
- m. Fujitsu Computer Systems Corporation, et al. v. Patriot Scientific Corporation, et al., Case No. 3-05-cv-04837;
- n. Technology Properties Limited, Inc., v. Fujitsu Limited et al., Case No. 2-05-cv-00494, United States District Court for the Eastern District of Texas;
- o. Patriot Scientific Corporation v. Moore et al., Case No. 5-04-cv-00618, United States District Court for the Northern District of California;

- p. Intel Corporation v. Patriot Scientific Corporation, Case No. 4-04-cv-00439, United States District Court for the Northern District of California;
- q. Patriot Scientific v. Matsushita Electric, Case No. 2-03-cv-06210, United States District Court for the District of New Jersey;
- r. Patriot Scientific Corporation v. NEC USA, Inc., Case No. 2-03-cv-06432, United States District Court for the Eastern District of New York;
- s. Patriot Scientific Corporation v. Fujitsu Microelectronics America, Inc., Case No. 4-03-cv-05787, United States District Court for the Northern District of California;
- t. Patriot Scientific Corporation v. Toshiba America, Inc., Case No. 1-03-cv-10180, United States District Court for the Southern District of New York;
- u. Patriot Scientific Corporation v. Sony Corporation of America, Case No. 1-03-cv-10142, United States District Court for the Southern District of New York.
- v. Technology Properties Limited, et al. v. Barnes & Noble, Inc., Case No. 3:12-cv-03863;
- w. Technology Properties Limited, et al. v. Huawei Technologies Co., Ltd., Case No. 2:12-cv-03865;
- x. Technology Properties Limited, et al. v. Garmin Ltd., Case No. 3:12-cv-03870;
- y. Technology Properties Limited, et al. v. ZTE Corporation, Case No. 3:12-cv-03876;
- z. Technology Properties Limited, et al. v. Samsung Electronics Co., Case No. 3:12-cv-03877;

aa. Technology Properties Limited, et al. v. Novatel Wireless, Inc., Case No. 3:12-cv-03879;

bb. Technology Properties Limited, et al. v. Nintendo Co., Ltd., Case No. 3:12-cv-03881.

INSTRUCTIONS

1. These Requests shall apply to all Documents and Things in Your actual or constructive possession, custody, or control at the present time, or coming into Your actual or constructive possession, custody, or control during the litigation, including all such responsive Documents and Things located in the personal files of any and all past or present directors, officers, principals, managers, employees, attorneys, agents, representatives, contractors, consultants, or accountants of Plaintiffs. If You know of the existence, past or present, of any Documents and Tangible Things requested herein, but are unable to produce such Documents and Tangible Things because they are not presently in Your possession, custody, or control, You shall so state and shall identify such Documents or Tangible Things, and the Person who has possession, custody, or control of such Documents or Tangible Things.

2. All Documents requested are to be produced in the same file or other organizational environment in which they are maintained. For example, a Document that is part of a file, docket, or other grouping, should be physically produced together with all other Documents from said file, docket, or grouping in the same order or manner of arrangement as the original. File folders with tabs or labels identifying Documents should be produced intact with such Documents.

3. For any responsive Documents or tangible Things that have been lost, destroyed or withheld from production based on any ground, provide a written statement setting forth:

- a. the identity of the Document;
 - b. the nature of the Document (e.g., letter, memorandum, chart);
 - c. the identity of the person(s) who received copies of the Document;
 - d. the date of the Document;
 - e. a brief description of the subject matter of the Document; and
 - f. the circumstances of the loss or destruction of the Document and any fact, statute, rule or decision upon which you rely in withholding the Document.
4. If you withhold from production any Document or part thereof based upon a claim of privilege or any other claim, describe the nature and basis of your claim and the information withheld in a manner sufficient to:
- a. disclose the facts upon which you rely in asserting your claim;
 - b. permit the grounds and reasons for withholding the information to be identified unambiguously; and
 - c. permit the information withheld to be identified unambiguously.
5. You shall keep and produce a record of the source of each Document produced. This shall include the name and location of the file where each Document was located and the name of the person, group or department having possession, custody or control of each Document.
6. Each Document is to be produced along with all drafts, without abbreviation or redaction.

REQUESTS FOR PRODUCTION OF DOCUMENTS

Request for Production No. 1: All Documents and Things relating to conception, reduction to practice, and diligence between conception and reduction to practice, including

corroboration thereof, of the subject matter of the alleged inventions claimed in the Asserted Patents, including any failed attempts at such reduction to practice.

Request for Production No. 2: All Documents and Things identifying any Person or Entity involved in or contributing to the conception, design, development, or initial implementation of the subject matter described or claimed in the Asserted Patents and this Person's or Entity's role and extent of their participation.

Request for Production No. 3: All Documents and Things relating to any contractual or other agreement relating to any work including or leading to the conception or reduction to practice of each alleged invention claimed in the Asserted Patents.

Request for Production No. 4: All Documents and Things relating to inventorship of any claims of the Asserted Patents, including identification of any inventor, the contribution that any named inventor made to conception or reduction to practice, and any claim of inventorship by a Person not named as an inventor on the Asserted Patents.

Request for Production No. 5: All Documents and Things related to inventor files and records, including lab notebooks, related to the subject matter described or claimed in the Asserted Patents.

Request for Production No. 6: All Documents and Things relating to any mode, including the best mode, for practicing the subject matter of the claims of the Asserted Patents known to or contemplated by any inventor prior to allowance of the claim by the USPTO examiner.

Request for Production No. 7: All Documents and Things that relate to the first drawing or sketch, and the first written description of the subject matter disclosed or claimed in the Asserted Patents.

Request for Production No. 8: All Documents and Things that relate to any testing, development, design, experimental, or research activity conducted in connection with any and all alleged inventions described in the Asserted Patents, including, but not limited to, the design, construction and operation of the first device or prototype embodying or intended to embody any of the alleged inventions.

Request for Production No. 9: All Documents and Things relating to any development, beta testing, manufacture, use (including experimental use), publication, knowledge, offer to sell or license, importation, or the sale or license (in the U.S. and worldwide) of any product or process embodying all or part of any of the alleged inventions claimed or disclosed by the Asserted Patents, including all Documents and Things sufficient to show all names, model numbers and any other commercial and/or developmental designation for any product or process, the name and address of the seller, the name and address of the prospective purchaser, the article(s) that was (were) offered for sale, the quantity that was offered for sale, the date of the offer for sale, and the total dollar amount of the offer for sale, prior to the filing date of the first United States patent application describing that subject matter and up to two years after the filing date.

Request for Production No. 10: All Documents and Things that relate to the first offer for sale of the “Sh-boom” microprocessor.

Request for Production No. 11: All written works, whether published or unpublished, which discuss or relate to the first “Sh-boom” microprocessor.

Request for Production No. 12: All sworn statements of the Asserted Patents’ named inventors Charles H. Moore and/or Russell H. Fish, III, whether in the Related Proceedings or before the United States Patent and Trademark Office (“USPTO”), including any

declarations, affidavits, deposition and trial testimony and related transcripts, audio recordings, video recordings, and exhibits.

Request for Production No. 13: All Documents and Things that relate to the scope and meaning of claim terms in the Asserted Patents.

Request for Production No. 14: All Documents and Things that relate to the infringement, non-infringement, validity, invalidity of the Asserted Claims, or to the enforceability or unenforceability of the Asserted Patents, including opinions of counsel.

Request for Production No. 15: All Documents and Things constituting or concerning Prior Art or potential Prior Art, public uses, sales, or offers of sale that relate to an Asserted Patent or applications therefor.

Request for Production No. 16: All Documents and Things prepared, used, relied on, or created in connection with the development, research, investigation, or study of any of the alleged inventions claimed by an Asserted Patent, including any work papers, notebooks, laboratory papers, engineers' notebooks, reports, invention proposals, invention disclosures, patent applications, or other similar materials.

Request for Production No. 17: All Documents and Things that relate to the subject matter described or claimed in the Asserted Patents, including published or unpublished articles, memoranda, reports, papers, manuscripts, technical reports, conference papers, or other publications authored, coauthored, written or co-written by You or any other individual who participated in or contributed to the research or development of the subject matter described in the Asserted Patents, or by any other employee, agent, or representative of a Plaintiff.

Request for Production No. 18: All Documents and Things relating to any design or development activities relating to the subject matter of any claim of the Asserted Patents.

Request for Production No. 19: The identity, name, design, features, function, structure, and operation of any products (including, without limitation, any product, apparatus, method, invention, system, service, prototype, drawing, design, schematic, invention, embodiment or item), covered by any of the subject matter disclosed or claimed in the Asserted Patents.

Request for Production No. 20: All Documents and Things constituting or relating to any search, investigation, evaluation, report, opinion, or Communication relating to alleged infringement by the accused infringers in Related Proceedings.

Request for Production No. 21: All Documents and Things relating to any actual, perceived, or alleged commercial success, licensing, copying, initial professional skepticism or praise, unexpected results (whether successful or not), long felt need, copying, widespread acceptance, improvement over the prior art, or any other secondary indicia of nonobviousness of the alleged inventions claimed or disclosed in the Asserted Patents.

Request for Production No. 22: All Documents and Things constituting or relating to Prior Art relating to the subject matter of the Asserted Patents, public uses, sales, or offers of sale that relate to an Asserted Patent or applications therefor.

Request for Production No. 23: All Documents pertaining to any information or reference asserted by any party to the Related Proceedings or any third party, including but not limited to, during litigation or license negotiations, to be prior art to the Asserted Patents.

Request for Production No. 24: All studies, reports, opinions, or other Documents that relate to the patentability of any of the alleged inventions claimed in the Asserted Patents, including all patents and other references or Things identified, considered, or analyzed in any such studies, reports, opinions, or Documents.

Request for Production No. 25: All Documents and Things considered or evaluated by You regarding, or that relate to, the alleged novelty, unenforceability, or validity of the Asserted Patents.

Request for Production No. 26: All Documents and Things that relate to or considered in connection with the preparation, filing, or prosecution of the Asserted Patents or any of their parent or progeny, including:

- a) the complete prosecution history;
- b) all Documents referred to or relied upon in preparing the application;
- c) all Documents that refer or relate to communications between You and any patent attorney, agent, prior art searcher, or draftsman relating to the subject matter of any claim of any Asserted Patent;
- d) all drafts of the application or of any papers filed during prosecution;
- e) all drawings prepared in connection with the application;
- f) all Documents and Things relating to any communication to or from the USPTO relating to the subject matter of any claim;
- g) all Documents and Things relating to any reexamination, or any request for reexamination, whether or not granted, or any decision to request or not to request reexamination, relating to any Asserted Patent;
- h) all Documents and Things relating to any examiner interview relating to any Asserted Patent;
- i) all Documents and Things relating to any arguments made to the USPTO or a foreign patent office relating to any Asserted Patent;
- j) all Documents concerning ownership of the application.

Request for Production No. 27: All Documents and Things identifying any individual who was involved in the preparation, filing, or prosecution of the Asserted Patents, including Documents identifying the roles and dates of involvement for these individuals.

Request for Production No. 28: All Documents and Things relating to any communication to or from any inventor relating to the subject matter of any claim of the Asserted Patents.

Request for Production No. 29: All Documents and Things, including any communications including or intended for You, that relate to Charles H. Moore.

Request for Production No. 30: All Documents and Things related to any agreement between named inventors Charles H. Moore and/or Russell H. Fish, III, and any Plaintiff, assignee, or any Person now or previously having an ownership or license interest in the Asserted Patents.

Request for Production No. 31: All Documents and Things that relate to any presentation or meeting, the purpose of which was, at least in part, to discuss the Asserted Patents (including any patent applications or other proceedings related to the Asserted Patents).

Request for Production No. 32: All Documents and Things that relate to any actual, attempted, potential, or proposed negotiations, settlements or agreements, entered into in connection with any litigation, proceeding, or dispute resolution process related to the Asserted Patents.

Request for Production No. 33: All Documents regarding Your or a Plaintiff's efforts to license or assign the Asserted Patents.

Request for Production No. 34: All Documents and Things that relate to a Plaintiff.

Request for Production No. 35: All Documents and Things that relate to Your relationship with Plaintiffs, including any negotiations, employment, engagement, agreements

(whether written or oral, including drafts thereof) between You and a Plaintiff or Plaintiff's counsel.

Request for Production No. 36: All Documents and Things that relate to any payments, compensation, or incentives you received from Plaintiffs, directly or indirectly.

Request for Production No. 37: All Documents that pertain to, mention, or discuss any of the parties in the Related Proceedings a Plaintiff accused of infringement, or any of their products.

Request for Production No. 38: All Documents and Things that relate to the bankruptcy proceedings filed by Plaintiff Technology Properties Limited LLC.

Request for Production No. 39: All Documents and Things that You identify or on which You rely in responding to any discovery requests (including this subpoena) served in this action.

Request for Production No. 40: All Documents and Things relating to Your preparation for Your deposition(s) in this action.

Request for Production No. 41: All Documents and Things relating to Your collection, review, and production of Documents in response to this subpoena.

AO 88A (Rev. 02/14) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT
for the
Northern District of California

See list of cases and parties in Attachment A)

Plaintiff)

v.)

See list of cases and parties in Attachment A)

Defendant)

Civil Action No. See list of cases in Att. A

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Russell H. Fish

(Name of person to whom this subpoena is directed)

Testimony: **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:
See Attachment B.

Place: 1717 Main St., Suite 500, Dallas, TX 75201	Date and Time: 07/14/2015 9:00 am
---	--------------------------------------

The deposition will be recorded by this method: by stenographic, video, audio, and/or realtime means

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 06/10/2015

CLERK OF COURT

OR

/s/ Hersh Mehta

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____
ZTE Corporation and ZTE (USA) Inc. _____, who issues or requests this subpoena, are:

Hersh Mehta, NBC Tower - Suite 3600, 455 N. Cityfront Plaza Dr., Chicago, IL 60611

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. See list of cases in Att. A

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named individual as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

This subpoena is issued in the following cases pending in the United States District Court for the Northern District of California:

- *Technology Properties Ltd., et al. v. Barnes & Noble, Inc.*; Case No. 3:12-cv-03863
- *Technology Properties Ltd., et al. v. Huawei Tech. Co., Ltd., et al.*; Case No. 2:12-cv-03865
- *Technology Properties Ltd., et al. v. Garmin Ltd. et al.*; Case No. 3:12-cv-03870
- *Technology Properties Ltd., et al. v. ZTE Corporation et al.*; Case No. 3:12-cv-03876
- *Technology Properties Ltd., et al. v. Samsung Elec. Co. et al.*; Case No. 3:12-cv-03877
- *Technology Properties Ltd., et al. v. Novatel Wireless, Inc.*; Case No. 3:12-cv-03879
- *Technology Properties Ltd., et al. v. LG Electronics, Inc. et al.*; Case No. 3:12-cv-03880
- *Technology Properties Ltd., et al. v. Nintendo Co., Ltd. et al.*; Case No. 3:12-cv-03881

ATTACHMENT B

DEFINITIONS

1. “You,” “Your,” and “Yours” means Russell H. Fish.
2. “Plaintiffs” means Plaintiffs Technology Properties Limited LLC, Phoenix Digital Solutions LLC, and Patriot Scientific Corporation, both individually and in any combination, including past and present officers, directors, employees, agents, consultants, predecessors, subsidiaries, parents, affiliates, and contractors.
3. “Asserted Patents” means any one or more of United States Patent Nos. 5,440,749 (“the ’749 patent”), 5,530,890 (“the ’890 patent”), and 5,809,336 (the ’336 patent”), together with any patents Plaintiffs may later attempt to assert in this action.
4. “Asserted Claims” means: claims 1, 43 and 59 of the ’749 patent; claims 7, 9, 11, 12, 13, 17 and 19 of the ’890 patent; and claims 6, 7, 9, 13, 14, and 15 of the ’336 patent, together with any claims Plaintiffs may later attempt to assert in this action.
5. “Prior Art” means anything that constitutes Prior Art under any subsection of 35 U.S.C. § 102 or § 103, including, without limitation, any publication, patent, use, sale, offer for sale, prior invention, knowledge, or other activity.
6. “Document(s)” is used in the broadest sense to include everything contemplated by Rule 34(a)(1)(A) of the Federal Rules of Civil Procedure and by Rule 1001 of the Federal Rules of Evidence. If a draft Document has been prepared in several copies that are not identical, or if the original identical copies are no longer identical due to subsequent notation, each non-identical Document is a separate Document.
7. “Thing(s)” is used in the broadest sense to include everything contemplated by Rule 34(a)(1)(B) of the Federal Rules of Civil Procedure.

8. “Person” or “Entity” and their plural forms include, without limitation, natural persons, partnerships, corporations, associations, and any other legal entities and units thereof.

9. “Communication” means any transmission of information, whether oral or in writing, including drafts.

10. “Relating to” and “concerning” are used in its broadest sense to include any connection, relation, or relevance.

11. The words “and” and “or” shall be construed conjunctively or disjunctively, whichever makes the request most inclusive.

12. “Related Proceedings” means cases alleging infringement or seeking declaratory judgment of non-infringement of one or more of the Asserted Patents, including, without limitation:

- a. In the Matter of Certain Wireless Consumer Electronics Devices and Components Thereof, United States International Trade Commission Proceeding No. 337-TA-853;
- b. Sirius XM Radio Inc. v. Technology Properties Ltd. et al, Case No. 3-10-cv-00816, United States District Court for the Northern District of California;
- c. Sirius XM Radio Inc. v. Technology Properties Ltd., et al., 1-09-cv-04083, United States District Court for the Southern District of New York;
- d. Technology Properties Limited et al. v. Acer Inc., et al., Case No. 2-08-cv-00176, United States District Court for the Eastern District of Texas;
- e. Technology Properties Limited et al. v. ASUSTeK Computer, Inc., Case No. 2-08-cv-00177, United States District Court for the Eastern District of Texas;

- f. Technology Properties Limited et al. v. HTC Corporation et al., Case No. 2-08-cv-00172, United States District Court for the Eastern District of Texas;
- g. Acer, Inc. et al. v. Technology Properties Limited et al., Case No. 5-08-cv-00877, United States District Court for the Northern District of California;
- h. HTC Corporation et al. v. Technology Properties Limited et al., Case No. 5-08-cv-00882, United States District Court for the Northern District of California;
- i. Asustek Computer Inc. v. Technology Properties Limited et al., Case No. 5-08-cv-00884 United States District Court for the Northern District of California;
- j. Toshiba America, Inc. et al. v. Patriot Scientific Corporation et al., Case No. 3-05-cv-04838, United States District Court for the Northern District of California;
- k. JVC Americas Corporation v. Patriot Scientific Corporation et al., Case No. 3-05-cv-04845, United States District Court for the Northern District of California;
- l. Panasonic Corporation of North America et al. v. Patriot Scientific Corporation et al., Case No. 3-05-cv-04844, United States District Court for the Northern District of California;
- m. Fujitsu Computer Systems Corporation, et al. v. Patriot Scientific Corporation, et al., Case No. 3-05-cv-04837;
- n. Technology Properties Limited, Inc., v. Fujitsu Limited et al., Case No. 2-05-cv-00494, United States District Court for the Eastern District of Texas;
- o. Patriot Scientific Corporation v. Moore et al., Case No. 5-04-cv-00618, United States District Court for the Northern District of California;

- p. Intel Corporation v. Patriot Scientific Corporation, Case No. 4-04-cv-00439, United States District Court for the Northern District of California;
- q. Patriot Scientific v. Matsushita Electric, Case No. 2-03-cv-06210, United States District Court for the District of New Jersey;
- r. Patriot Scientific Corporation v. NEC USA, Inc., Case No. 2-03-cv-06432, United States District Court for the Eastern District of New York;
- s. Patriot Scientific Corporation v. Fujitsu Microelectronics America, Inc., Case No. 4-03-cv-05787, United States District Court for the Northern District of California;
- t. Patriot Scientific Corporation v. Toshiba America, Inc., Case No. 1-03-cv-10180, United States District Court for the Southern District of New York;
- u. Patriot Scientific Corporation v. Sony Corporation of America, Case No. 1-03-cv-10142, United States District Court for the Southern District of New York.
- v. Technology Properties Limited, et al. v. Barnes & Noble, Inc., Case No. 3:12-cv-03863;
- w. Technology Properties Limited, et al. v. Huawei Technologies Co., Ltd., Case No. 2:12-cv-03865;
- x. Technology Properties Limited, et al. v. Garmin Ltd., Case No. 3:12-cv-03870;
- y. Technology Properties Limited, et al. v. ZTE Corporation, Case No. 3:12-cv-03876;
- z. Technology Properties Limited, et al. v. Samsung Electronics Co., Case No. 3:12-cv-03877;

aa. Technology Properties Limited, et al. v. Novatel Wireless, Inc., Case No. 3:12-cv-03879;

bb. Technology Properties Limited, et al. v. Nintendo Co., Ltd., Case No. 3:12-cv-03881.

INSTRUCTIONS

1. To the extent this deposition concerns production of documents, such production shall apply to all Documents and Things in Your actual or constructive possession, custody, or control at the present time, or coming into Your actual or constructive possession, custody, or control during the litigation, including all such responsive Documents and Things located in the personal files of any and all past or present directors, officers, principals, managers, employees, attorneys, agents, representatives, contractors, consultants, or accountants of Plaintiffs. If You know of the existence, past or present, of any relevant Documents and Tangible Things, but are unable to produce such Documents and Tangible Things because they are not presently in Your possession, custody, or control, You shall so state and shall identify such Documents or Tangible Things, and the Person who has possession, custody, or control of such Documents or Tangible Things.

2. All Documents are to be produced in the same file or other organizational environment in which they are maintained. For example, a Document that is part of a file, docket, or other grouping, should be physically produced together with all other Documents from said file, docket, or grouping in the same order or manner of arrangement as the original. File folders with tabs or labels identifying Documents should be produced intact with such Documents.

3. For any responsive Documents or tangible Things that have been lost, destroyed or withheld from production based on any ground, provide a written statement setting forth:

- a. the identity of the Document;
- b. the nature of the Document (e.g., letter, memorandum, chart);
- c. the identity of the person(s) who received copies of the Document;
- d. the date of the Document;
- e. a brief description of the subject matter of the Document; and
- f. the circumstances of the loss or destruction of the Document and any fact, statute, rule or decision upon which you rely in withholding the Document.

4. If you withhold from production any Document or part thereof based upon a claim of privilege or any other claim, describe the nature and basis of your claim and the information withheld in a manner sufficient to:

- a. disclose the facts upon which you rely in asserting your claim;
- b. permit the grounds and reasons for withholding the information to be identified unambiguously; and
- c. permit the information withheld to be identified unambiguously.

5. You shall keep and produce a record of the source of each Document produced. This shall include the name and location of the file where each Document was located and the name of the person, group or department having possession, custody or control of each Document.

6. Each Document is to be produced along with all drafts, without abbreviation or redaction.

DEPOSITION TOPICS

Deposition Topic No. 1: Your education, professional training, employment history, and current employment.

Deposition Topic No. 2: Any patent or patent application naming You as an inventor (including the Asserted Patents).

Deposition Topic No. 3: The conception, reduction to practice, and diligence between conception and reduction to practice, including corroboration thereof, of the subject matter of the alleged inventions claimed in the Asserted Patents, including any failed attempts at such reduction to practice, and any corroborating Documents or Things.

Deposition Topic No. 4: Any contractual or other agreement relating to any work including or leading to the conception or reduction to practice of each alleged invention claimed in the Asserted Patents.

Deposition Topic No. 5: Any Person or Entity involved in or contributing to the conception, design, development, or initial implementation of the subject matter described or claimed in the Asserted Patents and this Person's or Entity's role and extent of their participation.

Deposition Topic No. 6: Inventorship of any claims of the Asserted Patents, including identification of any inventor, the contribution that any named inventor made to conception or reduction to practice, and any claim of inventorship by a Person not named as an inventor on the Asserted Patents.

Deposition Topic No. 7: Your decision to undertake research and development concerning the alleged invention(s) claimed in the Asserted Patents.

Deposition Topic No. 8: Any testing, development, design, experimental, or research activity conducted in connection with any alleged inventions described in the Asserted Patents, including, but not limited to, the design, construction and operation of the first device or prototype embodying or intended to embody any of the alleged inventions, and any persons who participated in or have knowledge of the foregoing.

Deposition Topic No. 9: The first demonstration, publication or otherwise making available to the public (in the U.S. and worldwide), first use (in the U.S. and worldwide), first offer to sell or license (in the U.S. and worldwide) and first sale or license (in the U.S. and worldwide) of any product or prototype covered by the Asserted Patents, including but not limited to the date(s) of such demonstration, use, and/or sale or license.

Deposition Topic No. 10: Any attempts by You, Plaintiffs, or any third parties to design, develop, make, market, sell, offer to sell, advertise, license or otherwise commercialize any product or prototype covered by any of the Asserted Patents, including but not limited to the date(s) when such activity began, the identity of each person involved in such activity, and Documents relating to any of the foregoing.

Deposition Topic No. 11: The claims of the Asserted Patents, including their scope and meaning, and any previous related declarations or testimony by You in Related Proceedings or before the United States Patent and Trademark Office (“USPTO”).

Deposition Topic No. 12: The disclosures in the Asserted Patents, including whether such disclosures enable one of ordinary skill in the art to make and use the subject matter claimed in the Asserted Patents.

Deposition Topic No. 13: Any mode, including the best mode, for practicing the subject matter of the claims of the Asserted Patents known to or contemplated by any inventor prior to allowance of the claim by the USPTO examiner.

Deposition Topic No. 14: The prosecution and post-issuance activities regarding the Asserted Patents, including, without limitation, any and all parent applications, divisionals, continuations, continuations-in-part, foreign equivalents, applications claiming the benefit of the filing date of any of the foregoing (whether abandoned or not), and maintenance, including but not limited to the identity of the persons who drafted, reviewed, contributed to, or were otherwise involved in the preparation, filing, or prosecution of said patent applications and maintenance of said patent (including Plaintiffs' prior and present employees, agents, and attorneys).

Deposition Topic No. 15: All Prior Art or preexisting technology known to You, to any person working at Your or Plaintiffs' request, to any person working on Your or Plaintiffs' behalf, or to any third party in connection with any analysis or consideration of the claims of the Asserted Patents.

Deposition Topic No. 16: All results of Prior Art searches, investigations or analyses conducted by You, by Your or Plaintiffs' request, or on Your or Plaintiffs' behalf relating to the validity and/or enforceability of the Asserted Patents, including but not limited to, the identity of the individuals involved in conducting Prior Art searches, and Documents relating to any of the foregoing.

Deposition Topic No. 17: All analysis, research and/or testing that compares the alleged invention(s) claimed in the Asserted Patent with any Prior Art.

Deposition Topic No. 18: Your knowledge regarding the disclosure or non-disclosure of Prior Art (including information relating to preexisting technology) to the USPTO in connection

with the prosecution of the applications that matured into the Asserted Patents, its parent applications, divisionals, continuations, continuations-in-part, foreign equivalents, and applications claiming the benefit of the filing date of any of the foregoing (whether abandoned or not) or the parent or progeny of the Asserted Patents, including the knowledge and/or compliance with any duty of disclosure to the USPTO respecting the Asserted Patents, by You, any other Inventors or any other person having such duty.

Deposition Topic No. 19: The factual bases for any benefits that are generated by using a product or method covered by the Asserted Patents as compared to what was known in the Prior Art when the applications for the Asserted Patents were filed.

Deposition Topic No. 20: Any disclosures that relate to the subject matter described or claimed in the Asserted Patents, including published or unpublished articles, memoranda, reports, papers, manuscripts, technical reports, conference papers, symposiums, conventions, seminars and/or speeches.

Deposition Topic No. 21: Any agreement between named inventors Charles H. Moore and/or Russell H. Fish, III, and any Plaintiff, assignee, or any Person now or previously having an ownership or license interest in the Asserted Patents.

Deposition Topic No. 22: Any design or development activities relating to the subject matter of any claim of the Asserted Patents.

Deposition Topic No. 23: The identity, name, design, features, function, structure, and operation of any products (including, without limitation, any product, apparatus, method, invention, system, service, prototype, drawing, design, schematic, invention, embodiment or item), covered by any of the subject matter disclosed or claimed in the Asserted Patents.

Deposition Topic No. 24: Any facts that support or negate actual, perceived, or alleged commercial success ((including any facts supporting a nexus between the claims of the Asserted Patents and such success), licensing, copying, initial professional skepticism or praise, unexpected results (whether successful or not), long felt need, copying, widespread acceptance, improvement over the Prior Art, or any other secondary indicia of nonobviousness of the alleged inventions claimed or disclosed in the Asserted Patents.

Deposition Topic No. 25: Infringement or non-infringement with respect to the products Plaintiffs accused of infringement in the Related Proceedings, and any related studies, reports, opinions, or Documents.

Deposition Topic No. 26: The patentability, validity, enforceability, value and/or marketability of the Asserted Patents and/or the subject matter disclosed or claimed therein, and any related studies, reports, opinions, or Documents.

Deposition Topic No. 27: Any actual, attempted, potential, or proposed negotiations, settlements or agreements, entered into in connection with any litigation, proceeding, or dispute resolution process related to the Asserted Patents.

Deposition Topic No. 28: Any efforts by You, Plaintiffs, or any third party to license or assign the Asserted Patents.

Deposition Topic No. 29: Your knowledge of Plaintiffs.

Deposition Topic No. 30: Your relationship with Plaintiffs, including any negotiations, employment, engagement, agreements (whether written or oral, including drafts thereof) between You and a Plaintiff or Plaintiff's counsel.

Deposition Topic No. 31: Any payments, compensation, or incentives you received from Plaintiffs, directly or indirectly.

Deposition Topic No. 32: The bankruptcy proceedings filed by Plaintiff Technology Properties Limited LLC.

Deposition Topic No. 33: All Documents that pertain to, mention, or discuss any of the parties in the Related Proceedings a Plaintiff accused of infringement, or any of their products.

Deposition Topic No. 34: Your knowledge of and participation in any legal action involving the Asserted Patents, including the Related Proceedings, including any declarations, affidavits, reports, deposition or trial testimony You provided.

Deposition Topic No. 35: All Documents and Things that You identify or on which You rely in responding to any discovery requests (including this subpoena) served in this action.

Deposition Topic No. 36: Your preparation for Your deposition(s) in this action.

Deposition Topic No. 37: Your collection, review and production of Documents in response to this subpoena.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

TECHNOLOGY PROPERTIES LIMITED
LLC, PHOENIX DIGITAL SOLUTIONS LLC,
and PATRIOT SCIENTIFIC CORPORATION,

Plaintiffs,

v.

LG ELECTRONICS, INC. AND LG
ELECTRONICS U.S.A., INC.,

Defendants.

Case No. 3:12-cv-03880-VC (PSG)

**[PROPOSED] ORDER DENYING
PLAINTIFFS' MOTION TO LIMIT
DEFENDANTS' SUBPOENAS TO THIRD
PARTY CHARLES MOORE OR,
ALTERNATIVELY, FOR A PROTECTIVE
ORDER**

DATE: August 11, 2015
TIME: 10:00 a.m.
JUDGE: Hon. Paul S. Grewal
DEPT. Courtroom 5, 4th Floor

TECHNOLOGY PROPERTIES LTD. LLC, et
al.,

Plaintiffs,

v.

BARNES & NOBLE, INC.,

Defendant.

Case No.: 3:12-CV-03863-VC (PSG)

1 TECHNOLOGY PROPERTIES LIMITED
2 LLC, PHOENIX DIGITAL SOLUTIONS
3 LLC, and PATRIOT SCIENTIFIC
4 CORPORATION,

5 Plaintiffs,

6 v.

7 GARMIN LTD., GARMIN
8 INTERNATIONAL, INC., AND GARMIN
9 USA, INC.,

10 Defendants.

Case No. 3:12-cv-03870-VC (PSG)

11 TECHNOLOGY PROPERTIES LIMITED
12 LLC, PHOENIX DIGITAL SOLUTIONS
13 LLC, and PATRIOT SCIENTIFIC
14 CORPORATION,

15 Plaintiffs,

16 v.

17 HUAWEI TECHNOLOGIES CO., LTD. and
18 HUAWEI NORTH AMERICA,

19 Defendants.

Case No. 2:12-cv-03865-VC (PSG)

20 TECHNOLOGY PROPERTIES LIMITED
21 LLC, PHOENIX DIGITAL SOLUTIONS
22 LLC, and PATRIOT SCIENTIFIC
23 CORPORATION,

24 Plaintiffs,

25 v.

26 ZTE CORPORATION and ZTE (USA)
27 INC.,

28 Defendants.

Case No. 3:12-cv-03876-VC (PSG)

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TECHNOLOGY PROPERTIES LIMITED
LLC, PHOENIX DIGITAL SOLUTIONS
LLC, and PATRIOT SCIENTIFIC
CORPORATION,

Plaintiffs,

v.

SAMSUNG ELECTRONICS CO., LTD. and
SAMSUNG ELECTRONICS AMERICA,
INC.,

Defendants.

Case No. 3:12-cv-03877-VC (PSG)

TECHNOLOGY PROPERTIES LIMITED
LLC, PHOENIX DIGITAL SOLUTIONS
LLC, and PATRIOT SCIENTIFIC
CORPORATION,

Plaintiffs,

v.

NINTENDO CO., LTD. and NINTENDO OF
AMERICA INC.,

Defendants.

Case No. 3:12-cv-03881-VC (PSG)

1 The Court, having considered Plaintiffs' Motion to Limit Defendants' Subpoenas to Third
2 Party Charles Moore or, Alternatively, for a Protective Order, and the parties' related arguments,
3 **DENIES** the motion.

4 IT IS SO ORDERED.

5 DATED: _____, 2015

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7 HONORABLE PAUL S. GREWAL
8 UNITED STATES MAGISTRATE JUDGE
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