

1 COOLEY LLP
HEIDI L. KEEFE (178960) (hkeefe@cooley.com)
2 MARK R. WEINSTEIN (193043) (mweinstein@cooley.com)
RONALD S. LEMIEUX (120822) (rlemieux@cooley.com)
3 KYLE D. CHEN (239501) (kyle.chen@cooley.com)
Five Palo Alto Square, 4th Floor
4 3000 El Camino Real
Palo Alto, California 94306-2155
5 Telephone: (650) 843-5000
Facsimile: (650) 857-0663
6
STEPHEN R. SMITH (*pro hac vice*) (stephen.smith@cooley.com)
7 One Freedom Square
Reston Town Center
8 11951 Freedom Drive
Reston, VA 20190-5656
9 Telephone: (703) 456-8000
Facsimile: (703) 456-8100
10
Attorneys for Plaintiffs
11 HTC CORPORATION and
HTC AMERICA, INC.
12

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

16 HTC CORPORATION and HTC
17 AMERICA, INC.,
18 Plaintiffs,
19 v.
20 TECHNOLOGY PROPERTIES
LIMITED, PATRIOT SCIENTIFIC
21 CORPORATION and ALLIACENSE
LIMITED,
22 Defendants.
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Case No. 5:08-cv-00882 PSG

[Related to Case No. 5:08-cv-00877 PSG]

**EMERGENCY MOTION FOR
ADDENDUM TO JURY INSTRUCTIONS**

Complaint Filed: February 8, 2008
Trial Date: September 23, 2013

Date: September 20, 2013
Time: 9:30 a.m.
Place: Courtroom 5, 4th Floor
Judge: Hon. Paul S. Grewal

NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that Plaintiffs HTC Corporation and HTC America, Inc. (collectively "Plaintiffs") move, on an emergency basis, pursuant to Civil Local Rules 6-3 and 7-11, this Court to add an addendum to the Joint Proposed Jury Instructions to reflect the Court's recent findings in its Order on Summary Judgment of Non-Infringement of the '336 Patent.

This Motion is based on the Memorandum of Points and Authorities set forth below, the accompanying Declaration of Kyle Chen, and such other matters as may be presented at the hearing on Plaintiffs' motion and allowed by the Court.

Plaintiffs notified Defendants' counsel on September 18, 2013, that Plaintiffs intended to file this motion and asked for a prompt response on whether Defendants opposed. Defendants and Plaintiffs were not able to reach a resolution.

MEMORANDUM OF POINTS AND AUTHORITIES

In light of the Court's Order (Dkt. No. 585) granting-in-part HTC's Motion for Summary Judgment of Non-Infringement of the '336 Patent and finding that the patentee disclaimed certain claim scope (*id.* at 11), Plaintiffs HTC Corporation and HTC America, Inc. ask the Court to add the following addendum to the Joint Proposed Jury Instructions (Dkt. No. 513). This addendum would add the following paragraph immediately before current paragraph no. 1 at line 15 of page 44 of those instructions:

The terms "entire ring oscillator variable speed system clock" (in claims 1 and 11), "entire oscillator" (in claims 6 and 13), and "entire variable speed clock" (in claims 10 and 16) are not satisfied by an accused system that uses any external clock to generate a signal.

An accused product can only infringe the '336 patent if that product contains an on-chip oscillator or clock that is (a) self-generating and (b) does not rely on an input control to determine its frequency.

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1 Dated: September 18, 2013

Respectfully submitted,

2 COOLEY LLP
3 HEIDI L. KEEFE
4 MARK R. WEINSTEIN
5 RONALD S. LEMIEUX
6 STEPHEN R. SMITH
7 KYLE D. CHEN

By: /s/ Kyle D. Chen

Attorneys for HTC CORPORATION and
HTC AMERICA, INC.

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UNITED STATES DISTRICT COURT
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SAN JOSE DIVISION

HTC CORPORATION, HTC AMERICA,
INC.,

Plaintiffs,

v.

TECHNOLOGY PROPERTIES
LIMITED, PATRIOT SCIENTIFIC
CORPORATION, and ALLIACENSE
LIMITED,

Defendants.

Case No. 5:08-cv-00882 PSG

(Related to Case Nos. 5:08-cv-00877 PSG)

**DECLARATION OF KYLE D. CHEN IN
SUPPORT OF EMERGENCY MOTION
FOR ADDENDUM TO JURY
INSTRUCTIONS**

Complaint Filed: February 8, 2008
Trial Date: September 23, 2013

I, Kyle D. Chen, declare:

1. I am an attorney at the law firm of Cooley LLP, counsel in this action for Plaintiffs
HTC Corporation and HTC America, Inc. (collectively "HTC"). I make this declaration in

1 support of Plaintiffs' Emergency Motion for Addendum to Jury Instructions ("Motion"). I have
2 personal knowledge based on information provided to me of the facts contained within this
3 declaration, and if called as a witness, could testify competently to the matters contained herein.

4 2. Prior to submitting its Motion, on September 18, 2013, Plaintiffs sent an email to
5 Defendants' counsel, including the proposed Motion and asking whether Defendants opposed the
6 Motion. The Defendants opposed the Motion. Accordingly, the parties were unable to reach a
7 stipulation pursuant to Local Rule 7-11.

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9 I declare under penalty of perjury that to the best of my knowledge the foregoing is true
10 and correct. Executed on September 18, 2013 in Palo Alto, California.

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12 /s/ Kyle D. Chen

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Case No. 5:08-cv-00882 PSG
[Related to Case No. 5:08-cv-00877 PSG]
**[PROPOSED] ORDER GRANTING
EMERGENCY MOTION FOR
ADDENDUM TO JURY INSTRUCTIONS**
Complaint Filed: February 8, 2008
Trial Date: September 23, 2013
Date: September 20, 2013
Time: 9:30 a.m.
Place: Courtroom 5, 4th Floor
Judge: Hon. Paul S. Grewal

1 Having considered Defendants' Emergency Motion for an Addendum to the Joint
2 Proposed Jury Instructions, the record in this case and all related facts and circumstances, and
3 good cause appearing therefor, IT IS HEREBY ORDERED THAT the following paragraphs will
4 be added immediately before current Paragraph No. 1 at line 15 of page 44 of the current Joint
5 Proposed Jury Instructions (Dkt. No. 513):

6 The terms "entire ring oscillator variable speed system clock" (in claims 1 and 11),
7 "entire oscillator" (in claims 6 and 13), and "entire variable speed clock" (in
8 claims 10 and 16) are not satisfied by an accused system that uses any external
clock to generate a signal.

9 An accused product can only infringe the '336 patent if that product contains an
10 on-chip oscillator or clock that is (a) self-generating and (b) does not rely on an
input control to determine its frequency.

11 IT IS SO ORDERED.

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13 Dated: _____, 2013

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15 Hon. Paul S. Grewal
16 United States Magistrate Judge
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