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PATRIOT SCIENTIFIC CORPORATION

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

16 ACER, INC., ACER AMERICA)
CORPORATION and GATEWAY, INC.,)
17 Plaintiffs,)
18 v.)
19 TECHNOLOGY PROPERTIES LIMITED,)
PATRIOT SCIENTIFIC CORPORATION,)
20 and ALLIACENSE LIMITED,)
21 Defendants.)

Case No. 5:08-cv-00877 PSG

**DEFENDANTS' UNOPPOSED
MOTION UNDER CIVIL LOCAL
RULES 6-3 AND 7-11 FOR MODEST
EXTENSION OF INTERIM PRE-TRIAL
DATES**

Judge: Hon. Paul S. Grewal

22 HTC CORPORATION and HTC)
AMERICA, INC.,)
23 Plaintiffs,)
24 v.)
25 TECHNOLOGY PROPERTIES LIMITED,)
26 PATRIOT SCIENTIFIC CORPORATION)
and ALLIACENSE LIMITED,)
27 Defendants.)
28

Case No. 3:08-cv-00882 PSG

1 **Notice of Motion**

2 PLEASE TAKE NOTICE that Defendants Technology Properties Ltd., Patriot Scientific
3 Corporation, and Alliacense Ltd. (collectively, "TPL") move, pursuant to Civil Local Rules 6-3
4 and 7-11, for a modest extension of certain interim pre-trial dates set forth in the Court's
5 September 14, 2012 Case Management Order, Doc. 350. Plaintiffs Acer and HTC have
6 indicated that they will not oppose this motion. This Motion is based on the following
7 Memorandum of Points and Authorities, the entire record in this matter, and such evidence as
8 may be presented at any hearing of this Motion, on a date and at a time to be determined by the
9 Court.

10 **Memorandum of Points and Authorities**

11 TPL recognizes the Court's December 18, 2012 denial of its previous motion to continue
12 the trial date in this case (882 Doc. 415). In light of that denial, TPL respectfully seeks a modest
13 extension of certain interim pre-trial dates, *without* changing the dates for expert discovery cut-
14 off, the filing of dispositive motions, the last day for hearing dispositive motions, or for trial. In
15 short, TPL proposes the following proposed adjustment to the schedule in the Court's September
16 14, 2012 Case Management Order (Doc. 350):

<u>Event</u>	<u>Proposed Date</u>
17 Service of Final Infringement Contentions 18 (originally 30 days after final claim construction order)	January 15, 2013
19 Advice of counsel disclosure 20 (originally 20 days after infringement contentions)	February 1, 2013
21 Service of Final Invalidity Contentions (originally 20 days after infringement contentions)	February 5, 2013
22 Fact discovery cut-off 23 (originally 1/31/2013)	February 8, 2013
24 Opening expert reports (originally 2/15/2013)	February 20, 2013
25 Rebuttal expert reports 26 (originally 3/15/2013)	March 18, 2013
27 Expert discovery cut-off (same as current deadline)	April 1, 2013
28	

1 All other dates would remain the same.

2 Plaintiffs have indicated that they will not oppose TPL's motion for the proposed
3 adjustment to the pre-trial deadlines set forth above. Plaintiffs have also represented that if
4 witnesses relevant to their advice of counsel defense are not available during the week between
5 February 1 and 8, they will work with TPL to make those witnesses available at their earliest
6 convenience, even if that is after the discovery cut-off.

7 TPL respectfully seeks this adjustment to the schedule for two reasons. First, TPL seeks
8 a slight accommodation because the time for preparing its final infringement contentions spans
9 the holidays. Second, the adjustment resolves a disagreement amongst the parties regarding the
10 date that final infringement contentions are due. One day after the Court's December 5, 2012
11 Claim Construction Order (877 Doc. 381), Plaintiff HTC indicated that it intended to file a
12 motion seeking additional claim construction. HTC reaffirmed its intention to file such a motion
13 approximately ten days later. Accordingly, TPL understood that the Court's claim construction
14 would not be considered "final" until resolution of HTC's motion for further construction; thus,
15 the time for the final infringement contentions had not begun to run. After learning of TPL's
16 position, on December 21, 2012 (*i.e.*, today's date), HTC informed TPL that it had decided *not* to
17 file a motion for further claim construction – but would instead address those issues in
18 connection with summary judgment motions. Thereafter, the parties met and conferred, and
19 Plaintiffs have agreed not to oppose the current motion.

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Conclusion

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For the foregoing reasons, TPL respectfully asks the Court to grant its unopposed motion for a modest extension of certain interim pre-trial dates, as outlined above.

Dated: December 21, 2012

Respectfully submitted,

AGILITY IP LAW, LLP

By: /s/ James C. Otteson
James C. Otteson

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TECHNOLOGY PROPERTIES LIMITED
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By: /s/ Charles T. Hoge
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Case Nos. 5:08-cv-00877 PSG

**[PROPOSED] ORDER MODIFYING
INTERIM PRE-TRIAL DATES**

Judge: Hon. Paul S. Grewal

22 HTC CORPORATION and HTC)
AMERICA, INC.,)
23 Plaintiffs,)
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25 TECHNOLOGY PROPERTIES LIMITED,)
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28

Case No. 3:08-cv-00882 PSG

1 Having considered Defendants' Unopposed Motion Under Civil Local Rules 6-3 and 7-
2 11 to Modify Interim Pre-Trial Dates, the motion is GRANTED.

3 IT IS HEREBY ORDERED that the following modifications to the schedule and
4 deadlines shall apply to this case:

<u>Event</u>	<u>New Date</u>
5 Service of Final Infringement Contentions 6 (originally 30 days after final claim construction order)	January 15, 2013
7 Advice of counsel disclosure 8 (originally 20 days after infringement contentions)	February 1, 2013
9 Service of Final Invalidity Contentions (originally 20 days after infringement contentions)	February 5, 2013
10 Fact discovery cut-off (originally 1/31/2013)	February 8, 2013
11 Opening expert reports 12 (originally 2/15/2013)	February 20, 2013
13 Rebuttal expert reports 14 (originally 3/15/2013)	March 18, 2013
15 Expert discovery cut-off (same as current deadline)	April 1, 2013

16 All other dates to remain unchanged.
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18 Dated: December ____, 2012
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20 _____
United States Magistrate Judge
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