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15 *Attorneys for Plaintiff*
16 *Philips North America LLC*

17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**
19 **WESTERN DIVISION**

20 Philips North America LLC,

21 *Plaintiff,*

22 vs.

23
24 Garmin International, Inc. and
Garmin Ltd.,

25 *Defendants.*
26

Case No. 2:19-cv-06301-AB-KS

**JOINT STIPULATION ON CASE
MANAGEMENT AND ENTRY OF
FINAL JUDGMENT**

Hon. André Birotte Jr.

1 Plaintiff Philips North America LLC (“Philips”) and Defendants Garmin International,
2 Inc. and Garmin Ltd. (collectively “Garmin”) hereby jointly stipulate and respectfully request
3 that the Court enter an order on case management, and enter Final Judgment, as set forth below
4 and in the attached proposed order.

5 Philips filed this case on July 22, 2019. (Dkt. 1.) Philips’s operative Second Amended
6 Complaint asserts patent infringement claims as to U.S. Patent No. 6,013,007 (“the ’007
7 patent”), U.S. Patent No. 7,088,233 (“the ’233 patent”); U.S. Patent No. 8,277,377 (“the ’377
8 patent”) and U.S. Patent No. 9,801,542 (“the ’542 patent”) (collectively “Patents-in-Suit”). (Dkt.
9 126.)

10 Garmin asserts various defenses to Philips’s claims, along with Counterclaims for
11 invalidity of all of the Patents-in-Suit. (Dkt. 128.)

12 As to the ’007 Patent, the Court’s August 28, 2020 Claim Construction Order (Dkt. 102)
13 found the asserted claims of that patent invalid for indefiniteness. Philips moved under Rule
14 54(b) for entry of an appealable order on the ’007 Patent. (Dkt. 110.) Garmin opposed. (Dkt.
15 113.) The Court denied the motion, ordering that the ’007 Patent should remain part of the same
16 case as the rest of the Patents-in-Suit. (Dkt. 118).

17 As to the ’233 Patent, the Court initially stayed all litigation pending an *Inter Partes*
18 Review proceeding. (Dkt. 125.) Subsequently, in view of the appeal of the IPR decision, the
19 Court entered an order staying adjudication of the ’233 Patent, while proceeding with litigation
20 as to the ’377 Patent and ’542 Patent. (Dkt. 133.) The appeal of the ’233 Patent IPR remains
21 pending as of the time of this writing, and is expected to take a year or more to resolve.

22 Summary judgment motions followed as to the ’377 Patent and ’542 Patent.

23 As to the ’542 Patent, the Court granted summary judgment that the ’542 Patent is invalid,
24 while denying summary judgment as to non-infringement. (Dkt. 164.)

25 As to the ’377 Patent, the Court granted summary judgment of non-infringement, but
26 denied summary judgment of invalidity. (Dkt. 164.)

27 In sum, there are two items that remain unresolved that preclude entry of a final judgment
28 in this action: (a) the ’233 Patent claims, which are currently stayed and are likely to remain so

1 for a year or more, and (b) Garmin's Counterclaims for invalidity of the '377 Patent.

2 The Parties have conferred and now jointly and respectfully request as follows:

- 3 (1) That the Court sever the '233 Patent claims and allow them to remain stayed for the
4 time being.
- 5 (2) That the Court enter a dismissal without prejudice of Garmin's Counterclaims for
6 Invalidity of the '377 Patent. *See Nystrom v. Trex Co., Inc.*, 339 F.3d 1347, 1350-51
7 (Fed. Cir. 2003) (explaining that where an invalidity counterclaim remains after entry
8 of summary judgment of non-infringement, the district court may dismiss the
9 invalidity counterclaims without prejudice).
- 10 (3) That the Court enter an appealable Final Judgment as to the '007 Patent, the '377
11 Patent, and the '542 Patent.
- 12 (4) That the Court maintain a stay on all further proceedings until it can be ascertained
13 whether (a) the '233 Patent Claims will survive, and (b) whether there will be a
14 remand as to any of the other Patents-in-Suit. If both eventualities occur, the Parties
15 request a joint trial on all remaining claims. Otherwise, the Parties request a trial on
16 whatever claims remain, if any.
- 17 (5) Any bill of costs under Federal Rule of Civil Procedure 54(d) or motion for attorney's
18 fees under Federal Rule of Civil Procedure 54(d) shall be deferred until all currently
19 pending appeals relating to this litigation, or appeals based on the current record in
20 this matter, have been concluded. If Plaintiff does not file an appeal in this litigation,
21 any deadline for filing such motions or bill of costs, shall be extended to 45 days after
22 the deadline for Plaintiff to file a Notice of Appeal has lapsed. On the foregoing basis,
23 neither party will oppose any such motion on the basis of timeliness.

24 A Proposed Order is filed herewith.

1 Dated: August 30, 2022

Respectfully submitted,

2 **LAMKIN IP DEFENSE**

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3 /s/ Rachael D. Lamkin

/s/ Jean-Paul Ciardullo

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22 I certify that Rachael D. Lamkin authorized the electronic filing of this document.

23 /s/ Jean-Paul Ciardullo