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17 *Attorneys for Plaintiff Nichia Corporation*

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

21 **Nichia Corporation,**
22
23 **Plaintiff,**
24 **v.**
25 **VIZIO, Inc.,**
26 **Defendant.**

Case No. 8:16-cv-00545-SJO-MRW
Joint Status Report Regarding
***Inter Partes* Review Proceedings**
Hearing: August 7, 2017 at 8:30 A.M.
Before: The Honorable S. James Otero

1 Pursuant to the Court’s Order dated June 23, 2017 (D.I. 71), and in
2 anticipation of the status conference scheduled for August 7, 2017, Plaintiff Nichia
3 Corporation (“Nichia”) and Defendant VIZIO, Inc. (“VIZIO”) respectfully submit
4 this joint status report.

5 **THIS CASE AND THE PTAB PROCEEDINGS**

6 This case, filed in March of 2016, involves a dispute concerning Nichia’s
7 allegations that certain VIZIO televisions that contain LEDs infringe four of
8 Nichia’s patents, specifically, U.S. Patent Nos. 7,901,959; 7,915,631; 8,309,375;
9 and 7,855,092 (“the patents-in-suit”).

10 On December 30, 2016, VIZIO filed four petitions—one for each of the
11 patents-in-suit—with the U.S. Patent and Trademark Office’s Patent Trial and
12 Appeal Board (“PTAB”) asking that the PTAB institute *inter partes* review
13 (“IPR”) proceedings for the claims Nichia had asserted in this litigation.

14 Shortly thereafter, on January 3, 2017, VIZIO moved to stay this case in its
15 entirety until the completion of the IPR proceedings. Nichia opposed.

16 On February 2, 2017, the Court granted VIZIO’s motion, staying this case
17 and ordering the parties to file the present status report to inform the Court of the
18 PTAB’s findings, and, if applicable, to request that the Court lift the stay.

19 On April 10, 11, and 13, 2017, pursuant to 37 C.F.R. § 42.107, Nichia
20 submitted to the PTAB Nichia’s preliminary responses to VIZIO’s IPR petitions.

21 **THE PTAB’S FINDINGS**

22 On July 6 and 7, 2017, the PTAB issued its decisions denying each of
23 VIZIO’s petitions. Copies of the PTAB’s decisions are attached hereto as Exhibits
24 A-D.

25 **LIFTING THE STAY**

26 The parties respectfully suggest that the stay should be lifted and, within ten
27 days of the Court’s order lifting the stay, they will submit a revised case schedule.

1 **REVISED CASE SCHEDULE**

2 The parties suggest that the revised case schedule should allow sufficient
3 time for the parties to ramp up their efforts again.

4 Nichia respectfully suggests that the revised case schedule should also allow
5 sufficient time for Nichia to assess whether any additional VIZIO products should
6 be included in its infringement contentions to the extent that Nichia has gained
7 relevant information concerning other VIZIO products since the stay issued.

8 VIZIO opposes Nichia's request, which appears to be a pre-cursor to a
9 motion for leave to amend Nichia's infringement contentions, yet Nichia has
10 offered no basis in support of such a motion. To the extent that the Court allows
11 Nichia additional time, VIZIO respectfully requests that it be afforded additional
12 time to prepare its invalidity contentions.

13 Without knowing more, Nichia states that it does not necessarily disagree
14 with VIZIO's view regarding amendments to its invalidity contentions, but
15 believes that the Court's guidance on at least this issue at the status conference
16 would likely be helpful to the parties before they start negotiating revisions to the
17 case schedule.

18 **STATUS CONFERENCE**

19 VIZIO respectfully requests that the Court continue the August 7, 2017
20 status conference until after the stay is lifted and the parties have submitted a
21 revised case schedule, as the Court will be in a better position to evaluate the
22 parties' positions and any disagreements concerning the proposed schedule.

23 Nichia does not join VIZIO's request and suggests that the August 7, 2017
24 status conference should be held so that the parties can address any questions the
25 Court may have regarding the PTAB's decisions, the status of this case when the
26 stay entered, and logistical and other issues in restarting the case. Nichia also
27 suggests that the parties' efforts in negotiating and preparing a revised case

1 schedule may be more efficient if they were to receive the Court’s guidance on
2 some issues, e.g., amendments to the parties’ contentions.

3 **ATTENDANCE AT STATUS CONFERENCE**

4 To the extent the Court wishes to proceed with the August 7 conference,
5 VIZIO respectfully request the opportunity to participate by telephone as VIZIO's
6 lead counsel has a scheduling conflict and VIZIO's other outside counsel will be
7 out of the country.

8 Nichia intends for its counsel to attend the August 7 status conference in
9 person and notes that a Nichia executive has already made plans to travel from
10 Japan to attend this scheduled hearing. Nichia, however, does not oppose VIZIO’s
11 request that it have the option to have its counsel attend telephonically.

12 Dated: July 31, 2017

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