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and LG ELECS. MOBILE RES. U.S.A., LLC

18 **UNITED STATES DISTRICT COURT**  
19 **SOUTHERN DISTRICT OF CALIFORNIA**

20 BELL NORTHERN RESEARCH,  
21 LLC,

22 Plaintiff,

23 v.

24 LG ELECTRONICS INC., LG  
25 ELECTRONICS U.S.A., INC., and  
26 LG ELECTRONICS MOBILE  
RESEARCH U.S.A., LLC,

27 Defendants.

Case No. 3:18-CV-2864-CAB-BLM

**JOINT MOTION TO EXTEND THE  
CASE MANAGEMENT ORDER**

Judge: Hon. Cathy Bencivengo

Magistrate Judge: Hon. Barbara Lynn Major

1 Plaintiff Bell Northern Research, LLC (“BNR”) and Defendants LG  
2 Electronics Inc., LG Electronics U.S.A., Inc., and LG Electronics Mobile  
3 Research U.S.A., LLC (collectively, “LG”) (together with BNR, the “Parties”)  
4 submit this Joint Motion to Extend Deadlines in the Case Management Order.

5 As the Southern District of California has recognized, Coronavirus Disease  
6 (COVID-19) has become an increasing concern. As of the date of this filing, the  
7 World Health Organization has declared the Disease a global pandemic, a  
8 National Emergency has been declared in the United States, many corporations  
9 and other organizations have instituted remote work policies, and partial  
10 lockdowns and curfews have been instituted in many parts of the United States,  
11 including in New Jersey where LG Electronics USA, Inc. is located.

12 In addition, numerous travel restrictions are in place. For example, the  
13 Centers for Disease Control has issued a Warning Level 3 for travel to South  
14 Korea (where LG Electronics Inc. is based), recommending that travelers avoid  
15 all nonessential travel to the country. Airlines are also substantially reducing air  
16 travel, such as American Airlines, which announced that it is reducing  
17 international air travel by 75%. And in a sign of the risks of domestic travel, the  
18 Department of Defense has banned all domestic travel with very narrow  
19 exceptions, and the Office of Management and Budget has issued guidance to all  
20 Executive Departments and Agencies recommending only “mission-critical  
21 travel,” such as “for activities essential to national security.”

22 Prior to the global outbreak, the Parties had scheduled numerous fact  
23 depositions of both Parties during the period of March 23 through April 15, 2020.  
24 Many of the depositions of LG witnesses were to take place in Seoul, South  
25 Korea. Other depositions of both Parties were to take place in various locations  
26 around the United States that in most instances require travel by the witnesses,  
27 and in all instances require travel by counsel for one or both Parties, including to  
28

1 New York, New York; Dallas, Texas; and Overland Park, Kansas. These  
2 depositions are of witnesses that are highly relevant to the Parties' current claims  
3 and defenses. As a result of the pandemic and travel concerns and restrictions,<sup>1</sup> as  
4 well as the now unavailability of court reporters and translators in South Korea  
5 due to COVID-19 concerns, the Parties wish to postpone all depositions until a  
6 safer time. However, the fact discovery deadline is currently April 17, 2020.

7 The Parties agree that the current situation with respect to COVID-19  
8 necessitates an extension of the fact discovery deadline, and the Parties believe  
9 good cause exists because the extension is required to protect the health and  
10 safety of witnesses, court reporters and associated personnel, as well as counsel.  
11 In addition, a fact discovery deadline extension is further justified because LG  
12 and third party Qualcomm are both unable to continue to make their source code  
13 available for BNR's review at the current time due to remote work policies  
14 instituted as a result of the COVID-19 situation.

15 The Parties also agree that the current situation with respect to COVID-19  
16 may necessitate postponing the Mandatory Settlement Conference before  
17 Magistrate Judge Major currently scheduled for April 28, 2020 (with confidential  
18 statements due to chambers by April 17, 2020). Because the Scheduling Order  
19 requires that each party bring to the conference a representative "having full and  
20 complete authority to enter into a binding settlement," (Dkt. No. 103 at ¶ 8(a)),  
21 LG intends to have a client representative from South Korea attend the conference.  
22 However, the Southern District of California has implemented visitor restrictions  
23 prohibiting entry into a courthouse in this District by any persons who have traveled  
24 to certain countries, including South Korea, within the last fourteen days. *See* Order  
25 of the Chief Judge No. 17: Visitor Restrictions (S.D. Cal. Mar. 13, 2020).

26 \_\_\_\_\_  
27 <sup>1</sup> For example, one BNR witness resides in Canada and the Canadian government has  
28 issued an advisory to residents that they avoid all non-essential travel outside of  
29 Canada. *See* <https://travel.gc.ca/destinations/united-states> (as of March 19, 2020).

1 Accordingly, as long as that restriction is in place, it is not feasible for LG to  
 2 participate in the Mandatory Settlement Conference in the manner required by the  
 3 Scheduling Order. If that restriction is still in place on April 7, 2020, the Parties will  
 4 jointly call Judge Major's chambers to request a later date.

5 While the Parties agree on the above, the Parties differ in their proposals  
 6 for the length of an extension of the fact discovery deadline and its effect on the  
 7 remainder of the schedule. Therefore, the Parties submit their proposals in the  
 8 following chart:

<b>Event</b>	<b>Current Date</b>	<b>BNR Proposal</b>	<b>LG Proposal</b>
Fact Discovery Closes	April 17, 2020	June 8, 2020	June 17, 2020
Disclosure of Experts Due	April 17, 2020	June 8, 2020	June 17, 2020
Supplementary Expert Disclosure Due	May 8, 2020	June 29, 2020	July 8, 2020
Opening Expert Reports Due	May 22, 2020	July 6, 2020	July 22, 2020
Rebuttal Expert Reports Due	July 2, 2020	Aug. 17, 2020	Sept. 2, 2020
Close of Expert Discovery	July 31, 2020	Sep. 21, 2020	Sept. 30, 2020
Dispositive/ Daubert Motions Due	Aug. 28, 2020	Oct. 5, 2020	Oct. 28, 2020
Oppositions to Disposition/ Daubert Motions Due	Sep. 17, 2020	Oct. 26, 2020	Nov. 17, 2020
Replies to Disposition/ Daubert Motions Due	Sep. 25, 2020	Nov. 2, 2020	Nov. 25, 2020
Exchange Rule 26(a)(3) Pretrial Disclosures	Nov. 2, 2020	No change	Jan. 4, 2021

Event	Current Date	BNR Proposal	LG Proposal
Deadline to Meet and Confer on Pretrial Disclosures	Nov. 9, 2020	No change	Jan. 11, 2021
Plaintiff Serves Draft Proposed Pretrial Order	Nov. 16, 2020	No change	Jan. 19, 2021
Motions <i>in limine</i> Due	Nov. 16, 2020	No change	Jan. 19, 2021
Proposed Pretrial Order Due to the Court	Nov. 23, 2020	No change	Jan. 26, 2021
Oppositions to Motions <i>in limine</i> Due	Nov. 23, 2020	No change	Jan. 26, 2021
Pretrial Conference	Nov. 30, 2020 at 9 a.m.	No change	Feb. 2, 2021 or subject to the Court's availability
Trial	Dec. 15, 2020 at 8:45 a.m.	No change	Subject to the Court's availability

The Parties submit the following statements in support of their respective proposals:

**BNR's Statement**

The COVID-19 situation poses considerable obstacles to the administration of justice and the court system as a whole. Courts, faced with the uncertainty of what will happen with respect to the public health crisis, are having to balance the rights of litigants to a speedy resolution of their cases with safety concerns. As the Southern District of California has recognized on its website<sup>2</sup> and as this Court acknowledged by declaring a mistrial in the *Finjan, Inc. v. ESET, LLC* case, there is an indisputable need to suspend court activities through at least April 16, 2020. *See* Case No.: 3:17-cv-0183-CAB-(BGS), Dkt. No. 783 (Minute Order entered

<sup>2</sup> <https://www.casd.uscourts.gov/assets/pdf/rules/Order%20of%20the%20Chief%20Judge%2018.pdf> (as of March 20, 2020).

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