

1 LOWELL R. STERN  
2 lowell.stern@usdoj.gov  
3 United States Department of Justice  
4 Antitrust Division  
5 450 5th Street, N.W., Suite 8700  
6 Washington, D.C. 20530  
7 Telephone: (202) 307-0922  
8 Facsimile: (202) 307-6283  
9 Attorney for Plaintiff

10 BRETT J. WILLIAMSON (Bar No. 145235)  
11 bwilliamson@omm.com

12 DARIN J. GLASSER (Bar No. 223788)  
13 dglasser@omm.com

14 O'MELVENY & MYERS LLP  
15 610 Newport Center Drive, 17th Floor  
16 Newport Beach, CA 92660-6429  
17 Telephone: (949) 760-9600  
18 Facsimile: (949) 823-6994

19 UNITED STATES DISTRICT COURT  
20 CENTRAL DISTRICT OF CALIFORNIA

	)		
UNITED STATES OF AMERICA,	)		CASE NO.: 8:09-cv-00275-AG-AN
Plaintiff,	)		<b>JOINT REPORT ON EARLY</b>
v.	)		<b>MEETING OF PARTIES</b>
MICROSEMI CORPORATION,	)		Scheduling Conference
Defendant.	)		Date: June 1, 2009
	)		Time: 10:00 a.m.
	)		Hon. Andrew J. Guilford

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**FED. R. CIV. P. 26(f) DISCOVERY PLAN**

1. Rule 26(a)(1) Disclosures. The parties will exchange initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) on or before **June 30, 2009**.
2. Scope of Discovery and Discovery Dates. Discovery will be conducted on claims contained within the Complaint and the denials and defenses within the answers to that pleading. The parties agree that discovery will not be conducted in phases and will not be limited or focused upon particular issues involved in this action. The parties also agree that discovery shall be completed by **May 14, 2010**. The defendant reserves the right to move the Court (under the normal procedures set forth in the Federal Rules of Civil Procedure and any applicable Local Rules) for an extension of the discovery period for the purpose of securing compliance with foreign discovery.
3. Electronically Stored Information. The parties have met and discussed electronically stored information. The parties agree to use their best efforts to produce electronically stored information in the format preferred by the requesting party. The parties have further agreed to a Stipulation Regarding Preservation and Discovery of Certain Electronically Stored Information, Draft Documents, and Privileged Materials, which they submitted to the Court on **May 22, 2009**.
4. Claims of Privilege and/or Protection. Discovery and production of potentially confidential and/or privileged information shall be governed by the Stipulated Protective Order, which the parties agree to submit to the Court on or before **June 1, 2009**.
5. Discovery Limitations.
  - a. *Depositions.* Absent good cause shown, all depositions shall occur on or before the discovery cutoff date. A deposition that was started on or before the discovery cutoff date may continue beyond the cutoff date if necessary for completion. Absent good cause shown, depositions shall be limited to no more

1 than 25 per side (excluding experts) plus depositions of the other side's designated  
2 witnesses as set forth in Paragraph 6(a) below. A deposition for up to seven hours  
3 of a party or non-party, taken pursuant to Fed. R. Civ. P. 30(b)(6), shall count as  
4 one deposition regardless of the number of witnesses produced to testify. Each  
5 deposition is limited to one day of seven hours; however, each party shall have up  
6 to two seven-hour days for the deposition of the other party's expert. Depositions  
7 taken for the sole purpose of establishing the foundation for admissibility of  
8 documents produced by any party or non-party do not count toward the limit on  
9 depositions. Such depositions shall be designated at the time that the deposition is  
10 noticed and shall be noticed only after the party taking the deposition has taken  
11 reasonable steps to establish the authenticity through other means.

12 b. *Written Discovery.* Absent good cause shown, all written  
13 discovery shall be served no later than **March 30, 2010**. Interrogatories shall be  
14 limited to 25 per side, including sub-parts. There will not be a limit on the number  
15 of requests for production of documents, requests for admissions, or Rule 45  
16 subpoenas for documents that may be served by the parties.

17 c. *Nationwide Service of Trial Subpoenas.* Due to the  
18 geographic dispersion of potential witnesses in this action, the parties request  
19 permission, pursuant to 15 U.S.C. § 23, to issue trial subpoenas that may run into  
20 any other federal district.

21 6. Pre-Trial Disclosures.

22 a. *Witness Lists.* The parties shall exchange initial trial live  
23 witness lists no later than **December 4, 2009**. Each party may amend its initial  
24 witness list by no later than **March 23, 2010**. Despite the limitation on the number  
25 of depositions (excluding experts) that each party may take, each party shall have  
26 the right to depose any witness on the opposing party's witness list, even if the  
27 limitation is exceeded.

28

1                   b.     *Exhibit Lists.* No later than **July 2, 2010**, the parties shall  
2 exchange lists of exhibits that each party anticipates introducing at trial during its  
3 case-in-chief, as well as a marked set of these exhibits. Such lists will be compiled  
4 in an agreed-upon electronic format listed by Bates number. The parties will also  
5 endeavor to agree upon reasonable limits on the number of trial exhibits that may  
6 be designated by each side. All documents contained on a party's exhibit list must  
7 have been previously produced during discovery in this case. The parties will  
8 exchange objections to the exhibits to be offered by the other party no later than  
9 **July 19, 2010**. Objections to such documents must be made within 3 business days  
10 after the date upon which they are added to the opposing party's exhibit list.  
11 Documents identified on or added to any party's exhibit list that are not timely  
12 objected to pursuant to this Paragraph shall be presumed to be authentic and  
13 admissible. Exhibit lists need not include exhibits used solely for purposes of  
14 cross-examination or rebuttal.

15                   The parties will endeavor to resolve any objections regarding the authenticity  
16 or admissibility of all exhibits (including demonstratives and those used during the  
17 case-in-chief, cross-examination, or rebuttal) in advance of their use. Any  
18 objections to exhibits that are not resolved by the parties after they have conferred  
19 will be resolved by the Court.

20                   c.     *Deposition Designations.* The parties shall exchange  
21 (page and line number) designations of deposition testimony to be offered at trial no  
22 later than **June 4, 2010**. Each party must provide objections to deposition  
23 testimony no later than **June 18, 2010**. Each party must provide counter  
24 designations to deposition testimony no later than **June 25, 2010**. Objections to  
25 any counter designations shall be exchanged no later than **July 2, 2010**.

26                   7.     Pre-Trial Conference. The pre-trial conference will be held on  
27 **August 19, 2010**, unless otherwise directed by the Court.  
28

1           8.     Trial. Trial shall commence on **August 30, 2010**, or as soon  
2 thereafter as the Court calendar permits.

3                                 **LOCAL RULE 26-1 REQUIREMENTS**

4           9.     Complex Cases. The parties agree that this is not a complex  
5 case, insofar as the Manual for Complex Litigation (current edition) should not be  
6 used in this case.

7           10.    Motion Schedule. The parties agree that the deadline for all  
8 dispositive motions is **June 2, 2010**, and that a hearing on dispositive motions shall  
9 be held on **July 16, 2010**, unless otherwise directed by the Court. The parties agree  
10 that the deadline for all motions in limine and Daubert motions is **June 28, 2010**,  
11 and that a hearing on motions in limine and Daubert motions shall be held on  
12 **August 19, 2010**, unless otherwise directed by the Court. The parties may file  
13 motions for summary judgment or partial summary judgment relating to the claims  
14 in the Complaint.

15           11.    Settlement. The parties agree to hold a settlement conference  
16 around December 10, 2009. The parties agree to use Settlement Procedure No. 1  
17 under Local Rule 16-15.4 and appear before the Magistrate Judge assigned to the  
18 case for such settlement proceedings as the judge may conduct or direct.

19           12.    Trial Estimate. The parties expect that the trial will take 20  
20 days, 10 days each for plaintiff and defendant.

21           13.    Additional Parties. The parties do not expect any additional  
22 parties to make an appearance in this case.

23           14.    Expert Witnesses.

24                 a.     Plaintiff's case-in-chief expert report(s) will be delivered  
25 to Defendant by **January 15, 2010**.

26                 b.     Defendant will depose Plaintiff's expert no later than  
27 **February 5, 2010**.

28

- 1 c. Defendant's case-in-chief expert report(s) will be  
 2 delivered to Plaintiffs by **February 19, 2010**.
- 3 d. Plaintiff will depose defendant's expert no later than  
 4 **March 12, 2010**.
- 5 e. Plaintiff's expert rebuttal report(s) will be delivered to  
 6 Defendant by **March 26, 2010**.

<b>Relevant Events/Dates</b>	
Submit Stipulated Protective Order	June 1, 2009 or earlier
Exchange Initial Disclosures	June 30, 2009
Deadline to Join Parties or Amend Pleadings	July 31, 2009
Exchange Preliminary Witness Lists	December 4, 2009
Settlement Conference	December 10, 2009
Plaintiff Expert Report Due	January 15, 2010
Deadline for Deposition of Plaintiff's Expert	February 5, 2010
Defendant Expert Report Due	February 19, 2010
Deadline for Deposition of Defendant's Expert	March 12, 2010
Deadline to Supplement Witness Lists	March 23, 2010
Plaintiff Rebuttal Expert Report Due	March 26, 2010
Written Discovery Cutoff	March 30, 2010
Discovery Cutoff	May 14, 2010
Dispositive Motion Cutoff	June 2, 2010
Deposition Designations Due	June 4, 2010
Objections to Deposition Designations Due	June 18, 2010
Oppositions to Dispositive Motions Due	June 23, 2010
Counter Designations Due	June 25, 2010

28

1	Objections to Counter Designations Due	July 2, 2010
2	Motions in Limine/Daubert Motions Due	June 28, 2010
3	Reply Briefs for Dispositive Motions Due	June 30, 2010
4	Exchange Exhibit Lists	July 2, 2010
5	Stipulations of Fact Due	July 7, 2010
6	Hearing on Dispositive Motions	July 16, 2010
7	Objections to Exhibits Due	July 19, 2010
8	Oppositions to Motions in Limine/Daubert	July 19, 2010
9	Motions Due	
10	Joint Exhibit List Due	July 23, 2010
11	Memorandum of Contentions of Fact and Law Due	July 26, 2010
12	Reply Briefs for Motions in Limine/Daubert	August 2, 2010
13	Motions Due	
14	Hearing on Motions in Limine/Daubert Motions	August 19, 2010
15	Pre-Trial Conference	August 19, 2010
16	Demonstrative Exhibits Due	August 19, 2010
17	Trial Briefs Due	August 23, 2010
18	Trial Begins	August 30, 2010

19  
20 Dated: May 22, 2009 By: \_\_\_\_\_/s/\_\_\_\_\_

21  
22 LOWELL R. STERN  
23 United States Department of Justice  
24 Antitrust Division  
25 500 5th Street, N.W., Suite 8700  
26 Washington, D.C. 20530  
27 Telephone: (202) 307-0922  
28 Facsimile: (202) 307-6283  
Email: lowell.stern@usdoj.gov

**Attorney for Plaintiff**

1 Dated: May 22, 2009

**O'MELVENY & MYERS LLP**

2 By: /s Brett J. Williamson

---

3 BRETT J. WILLIAMSON (CA State Bar No. 145235)  
4 DARIN J. GLASSER (CA State Bar No. 223788)  
5 O'MELVENY & MYERS LLP  
6 610 Newport Center Drive, 17th Floor  
7 Newport Beach, CA 92660-6429  
8 Telephone: (949) 760-9600  
9 Facsimile: (949) 823-6994  
10 Email: bwilliamson@omm.com

11 MICHAEL E. ANTALICS  
12 BENJAMIN G. BRADSHAW  
13 O'MELVENY & MYERS LLP  
14 1625 Eye Street, N.W.  
15 Washington, D.C. 20006  
16 Telephone: (202) 383-5300  
17 Facsimile: (202) 383-5414

**Attorneys for Defendant**

28



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 22nd day of May, 2009, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Brett J. Williamson  
Darin J. Glasser  
O'Melveny & Myers LLP  
610 Newport Center Drive, 17th Floor  
Newport Beach, CA 92660-6429

Michael E. Antalics  
Benjamin G. Bradshaw  
O'Melveny & Myers LLP  
1625 Eye Street, N.W.  
Washington, D.C. 20006

\_\_\_\_\_/s/\_\_\_\_\_  
Lowell R. Stern  
Attorney for Plaintiff