

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN DC-DC CONTROLLERS AND
PRODUCTS CONTAINING SAME**

**Inv. No. 337-TA-698
(Enforcement Proceeding)**

ORDER NO. 59: GRANTING-IN-PART RESPONDENT UPI SEMICONDUCTOR CORPORATION'S MOTION TO EXTEND THE EVIDENTIARY HEARING AND TARGET DATES; SETTING THE PROCEDURAL SCHEDULE

(October 11, 2011)

On August 30, 2011, the Commission instituted this Investigation and the Notice of Investigation was published in the Federal Register on September 6, 2011. 76 Fed. Reg. 55,109-110 (Sept. 6, 2011). The undersigned set a twelve-month target date of September 6, 2012 for completion of this Investigation by the Commission in Order No. 58, issued September 6, 2011. Order No. 58 also requested discovery statements from the parties by September 20, 2011.

On September 20, 2011, the parties submitted their joint proposed procedural schedule. On September 20, 2011, Respondent uPI Semiconductor Corporation ("uPI") also moved (698-072) to extend the evidentiary hearing and target dates by two months and to increase the time for the evidentiary hearing from two days to four days.¹ In its motion, uPI stated that it "will be severely prejudiced if the current anticipated trial and target dates are maintained," "that a modest increase in the time . . . is necessary," and that the time for the evidentiary hearing should be increased for "enough time to create a complete evidentiary record." (Mot. at 6-7.)

¹ In its discovery statement, uPI indicated that it would agree to the dates in the joint proposed procedural schedule if the undersigned denied uPI's motion and set the hearing dates at January 5-6, 2012.

On September 30, 2011, Complainants Richtek Technology Corp. and Richtek USA, Inc. opposed uPI's motion claiming that the ALJ would not need to address claim construction, infringement, or trade secret misappropriation with respect to formerly accused products in this Enforcement Proceeding. (Opp. at 4-5.) Complainants further claim that with respect to newly accused products, some of the same analysis and conclusions regarding formerly accused products would apply. (*Id.* at 5.) Complainants also claim that convenience of the lawyers is not good cause to move a hearing date. (*Id.*)

Respondent Sapphire Technology Limited supports the motion and Commission Investigative Staff takes no position.

The undersigned finds that good cause exists to extend the evidentiary hearing and target dates, and thus, uPI's motion is hereby granted-in-part. Based on a review of the undersigned's current caseload, the evidentiary hearing will be held on January 27-31, 2012 and the target date for completion of the investigation will be set for October 6, 2012.

Based on a review of the parties' joint proposed procedural schedule and the modified evidentiary hearing and target dates, the undersigned hereby adopts the following procedural schedule:

Event	Deadline Date
First settlement conference	October 24, 2011
Submission of first settlement conference joint report	October 28, 2011
File identification of expert witnesses, including their expertise and their <i>curriculum vitae</i>	November 4, 2011
Deadline for filing summary determination motions	November 25, 2011
Exchange of initial expert reports (identify tests/survey/data)	November 25, 2011

Event	Deadline Date
Exchange of rebuttal expert reports	December 9, 2011
Fact discovery cut-off and completion	December 9, 2011
Deadline for motions to compel discovery	December 16, 2011
Attendance at one-day mediation session ²	December 21, 2011
Expert discovery cutoff and completion	December 23, 2011
File tentative list of witnesses a party will call to testify at the hearing, with an identification of each witness' relationship to the party	December 23, 2011
Exchange of exhibit lists among the parties	December 23, 2011
Submit and serve direct exhibits (including witness statements), with physical and demonstrative exhibits available – Complainant and Respondents	December 27, 2011
Submit and serve direct exhibits (including witness statements), with physical and demonstrative exhibits available – Staff	December 27, 2011
File prehearing statements and briefs – Complainant and Respondents	December 27, 2011
File objections to direct exhibits (including witness statements)	December 30, 2011
Submit and serve rebuttal exhibits (including witness statements), with rebuttal physical and demonstrative exhibits available – all parties	December 30, 2011
Deadline for motions <i>in limine</i> ³	January 3, 2012
File prehearing statement and brief – Staff	January 5, 2012
File responses to objections to direct exhibits (including witness statements)	January 5, 2012
File objections to rebuttal exhibits (including witness statements)	January 5, 2012
File high priority objections statement	January 9, 2012

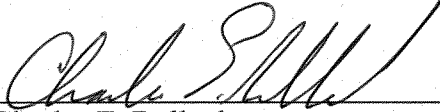
² Participation in the mediation program, however, is not cause for delay in the proceedings. Requests for extensions of time in the proceedings will not be considered unless a settlement agreement is reached. For any questions regarding the mediation program, the parties should refer to the Users' Manual for the Commission Pilot Mediation Program, available at <http://www.usitc.gov>.

³ Each side may file no more than ten (10) motions *in limine*.

Event	Deadline Date
File responses to high priority objections statement	January 12, 2012
File responses to motions <i>in limine</i>	January 12, 2012
Second settlement conference	January 13, 2012
Submission of second settlement conference joint report	January 17, 2012
Tutorial on technology ⁴	January 26, 2012
Prehearing conference ⁵	January 26, 2012
Trial ⁶	January 27-31, 2012
File initial post-trial briefs, proposed findings of fact and conclusions of law, ⁷ and final exhibit lists	February 21, 2012
File reply post-trial briefs, objections and rebuttals to proposed findings of fact and conclusions of law	March 2, 2012
Initial Determination due	June 4, 2012
Target date for completion of Investigation	October 6, 2012

For the dates set forth above that require a submission or filing, the date set forth is the date that the submission or filing must be at or filed at the Commission (by the close of business) and is not the date that such submission or filing is merely served.

SO ORDERED.



 Charles E. Bullock
 Acting Chief Administrative Law Judge

⁴ Each side's tutorial shall not exceed 1 hour. The tutorial is limited to a general overview of the technology and shall not include any discussion of the asserted patents or the accused products.

⁵ The parties are directed to meet and confer prior to the prehearing conference in an attempt to resolve any outstanding pre-trial motions, high priority objections, and any other contested issues concerning the trial.

⁶ The parties will be informed of the location of the hearing at a later date.

⁷ The undersigned no longer requires that the parties file proposed findings of fact and conclusions of law. In accordance with Commission Rule 210.40, any party, however, may elect to file proposed findings of fact and conclusions of law.

PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **Order No. 59** has been served by hand upon the Commission Investigative Attorney, Lisa A. Murray, Esq., and the following parties as indicated, on October 11, 2011.



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