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10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 QUALCOMM INCORPORATED,

13 Plaintiff,

14 Vs.

15 BROADCOM CORPORATION,

16 Defendant,

17 and RELATED COUNTERCLAIMS.

CASE NO. 05CV1958-B (BLM)

OPPOSITION BY RESPONDING
ATTORNEY ADAM BIER TO QUALCOMM
INCORPORATED'S MOTION RE REMAND
PROCEEDINGS

Date: April 30, 2008

Time: 10:00 a.m.

Judge: Hon. Barbara L. Major

18 **I. INTRODUCTION**

19 Responding Attorney Adam Bier hereby opposes the Motion Regarding Remand
20 Proceedings filed by Qualcomm, to the extent that motion seeks to prevent Mr. Bier from
21 discovering documents relevant to his defense in these sanctions proceedings, or to limit
22 Mr. Bier's ability to use in these proceedings information which is relevant to his defense. The
23 scope of the limitations Qualcomm seeks is too narrowly defined, and should be rejected.

24 **II. DISCUSSION**

25 Qualcomm's motion seeks to limit the "disclosure of Qualcomm's privileged information"
26 to "communications between Qualcomm and the Responding Attorneys concerning the selection
27 of custodians and the collection of documents for production during the discovery phase of this
28 case." (Motion, p. 1-2) This proposed limitation is too narrow. Mr. Bier was not involved in pre-

1 trial discovery in this case; as the declaration already submitted by Mr. Bier made clear, his
2 involvement in matters relevant to these sanctions proceedings was during and after trial, not
3 during the discovery phase of the case. Accordingly, in order to fairly defend himself, Mr. Bier is
4 likely to require disclosure of information which falls outside of Qualcomm's proposed limitation
5 of scope as part of document discovery, and will need to include such information as part of his
6 submissions to this Court.

7 Judge Brewster's Order dated March 5, 2008 made clear that "[t]he attorneys have a due
8 process right to defend themselves under the totality of circumstances presented in this sanctions
9 hearing . . ." (Order dated March 5, 2008, p. 5) Qualcomm's attempt to limit the scope of
10 information to be disclosed through document production and through briefing and declarations
11 submitted to this Court as Qualcomm has requested is contrary to that order, and should be
12 rejected.¹ Mr. Bier does not oppose all limitations on the scope of disclosure of privileged
13 information to be made as part of these proceedings. However, any such limitations should reflect
14 the breadth of the factual context underlying these proceedings.

15 **III. CONCLUSION**

16 For the reasons set forth above, the Court should deny the proposed narrow restrictions on
17 the scope of disclosure of attorney-client privileged material.

18 Dated: April 15, 2008

19 CHAPMAN, POPIK & WHITE LLP

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22 By: s/ Merri Baldwin
23 MERRI A. BALDWIN
24 Attorneys for Non-Party
25 Adam Arthur Bier

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28 ¹ Mr. Bier also joins in the Objections to QUALCOMM's motion filed by Responding
Attorneys Batchelder, Mammen and Leung.

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CASE NO. 05CV1958-B (BLM)

PROOF OF SERVICE

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CERTIFICATE OF SERVICE

I, the undersigned, declare:

I am employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to the within entitled action. My business address is Chapman, Popik & White, 650 California Street, 19th Floor, San Francisco, CA 94108.

On the day of service set forth below, I filed the document(s) listed below electronically and said document(s) were electronically transmitted to the interested parties as indicated below. Upon completion of said transmission of said documents, a Notice of Electronic Filing is issued to filing party, assigned judge and any registered user, acknowledging receipt by the CM/ECF system.

On April 16, 2008, I served the following document(s):

OPPOSITION BY RESPONDING ATTORNEY ADAM BIER TO QUALCOMM INCORPORATED'S MOTION RE REMAND PROCEEDINGS

on the parties involved addressed as follows:

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I declare under penalty of perjury that the foregoing is true and correct. Executed on
April 16, 2008 at San Francisco, California.



Lynne Amerson