

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, DC

Before the Honorable Thomas J. Pender
Administrative Law Judge

In The Matter Of

**CERTAIN SILICON MICROPHONE
PACKAGES AND PRODUCTS
CONTAINING SAME**

Investigation No. 337-TA-825

**JOINT MOTION OF COMPLAINANT KNOWLES ELECTRONICS, LLC AND
RESPONDENTS ANALOG DEVICES, INC., AMKOR TECHNOLOGY, INC.
AND AVNET, INC. TO AMEND PROCEDURAL SCHEDULE TO EXTEND
DEADLINE FOR SECOND SETTLEMENT CONFERENCE, AND
RESPONDENTS' UNOPPOSED MOTION FOR PERMISSION FOR
RESPONDENTS AMKOR TECHNOLOGY, INC. AND AVNET, INC. TO
ATTEND BY TELECONFERENCE**

Pursuant to 19 C.F.R. § 210.6 and Ground Rules 2 and 4.1, Complainant Knowles Electronics, LLC (“Knowles”) and Respondents Analog Devices, Inc. (“ADI”), Amkor Technology, Inc. (“Amkor”) and Avnet, Inc. (“Avnet”) (collectively “Respondents”) jointly move to amend the Procedural Schedule set forth in Order No. 4 in this Investigation (“Order No. 4”) to extend the deadline to hold the Second Settlement Conference, from June 15, 2012 to June 26, 2012 and Respondents move for permission for Respondents Amkor and Avnet to participate by teleconference as needed.

**Joint Motion to Amend Procedural Schedule to Extend Deadline for Second
Settlement Conference**

The deadline to hold the Second Settlement Conference is the only date set forth in Order No. 4 the parties seek to change. They seek an extension of less than two weeks. This change will not require any other modification to the Procedural Schedule.

Respondents also move, pursuant to Ground Rule 2, for permission for representatives of Amkor and Avnet to participate in the settlement conference by

teleconference as needed, to the extent their interests cannot be represented by ADI. That motion is unopposed.

Background

The Chief Executive Officers and General Counsel of Complainant Knowles, Jeff Niew and Ivonne M. Cabrera, respectively, and of Respondent ADI, Gerald A. Fishman and Margaret K. Self, respectively, are all available for a face-to-face settlement meeting on June 26, 2012, and the parties have scheduled a face-to-face settlement meeting between them for that date. At that meeting, ADI's Chief Executive Officer and General Counsel will be representing Respondents Amkor and Avnet in addition to ADI. With the permission of the ALJ, representatives of Respondents Amkor and Avnet will participate by teleconference as needed, to the extent their interests cannot be represented by ADI.

The Extension Sought is Consistent with the ALJ's Ground Rules

Ground Rule 2 provides:

The parties are required to attend three settlement conferences as set forth in the procedural schedule. The first settlement conference should occur relatively early in the investigation;¹ the second settlement conference should occur approximately midway through the discovery period; and the third settlement conference should occur between the close of discovery and the commencement of the hearing.

The parties are nearing substantial completion of document and interrogatory discovery and have recently begun depositions. Order No. 4 provides that fact discovery and expert discovery is to be completely by July 23. The date to which the parties seek to

¹ The First Settlement Conference, attended by Ms. Cabrera on behalf of Knowles and by Ms. Self on behalf of Respondents, occurred on April 9, 2012, in advance of the April 13, 2012 deadline set by Order No. 4.

extend the deadline for the second settlement conference is nearly four weeks before the discovery cut-off. Therefore, the adjournment is consistent with the timing contemplated by Ground Rule 2.

Ground Rule 1.10.2 provides:

Except as provided in Ground Rule 10.3, a request for extension of time that is unopposed . . . does not require a showing of good cause and will typically be granted as a matter of course.

Ground Rule 10.3, the exception referred to in Ground Rule 1.10.3, provides:

A request for extension of time that would require an extension of the fact discovery period or expert discovery period . . . will be granted only upon a showing of extraordinary cause.

The extension of time sought by this joint motion will not require an extension of the fact discovery period or the expert discovery period.

Ground Rule 4.1 provides:

Modifications of the procedural schedule (e.g., motion to submit notice of prior art out of time, motion to extend expert discovery period, motion for extension of time to submit initial expert reports), will be granted only upon written motion showing extraordinary cause.

This joint motion does not seek to submit a notice of prior art out of time, to extend the expert discovery period, or to extend the time to submit initial expert reports, and will have no impact on the deadlines for those or any other events set forth in Order No. 4.

The parties recognize that on its face the extraordinary cause requirement of Ground Rule 4.1 is not limited to the three events listed in its parenthetical. The parties submit, however, that there is extraordinary cause for extending the deadline for the Second Discovery Conference: As set forth above, the parties have planned a face-to-face settlement conference between the chief executive officers of Knowles and ADI, as well as the general counsel of both companies, and respectfully request that this June 26

conference constitute the Second Settlement Conference, with the deadline for completion of the Second Settlement Conference accordingly being moved to June 26.

Respondents' Motion for Respondents Amkor and Avnet to Participate by Teleconference

Respondents further move, pursuant to Ground Rule 2, for permission for representatives of Amkor and Avnet to participate in the settlement conference by teleconference as needed, to the extent their interests cannot be represented by ADI. That motion is unopposed.

Respondents submit that good cause exists to grant this motion. This dispute primarily concerns Knowles and ADI, competitors who have been engaged in patent litigation for many years. ADI is the primary respondent because it designs and engineers the accused microphones. Amkor is merely a contract manufacturer for ADI, and Avnet is merely a distributor of ADI's products. Amkor and Avnet have granted ADI authority to represent them and, if the opportunity presents itself, settle on their behalf at the settlement conference. Because the representatives with settlement authority from Amkor and Avnet are located in Arizona, it would impose a significant burden on them to travel across the country to participate in a conference in which, in reality given their relationship with ADI, they would be primarily passive observers.

* * *

A proposed order granting the relief sought is annexed.

Dated: June 13, 2012

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