

1 COUNSEL LISTED ON SIGNATURE PAGE

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3 **UNITED STATES DISTRICT COURT**  
4 **NORTHERN DISTRICT OF CALIFORNIA**  
5 **SAN JOSE DIVISION**

6  
7 **INTEL CORPORATION,**

8 **Plaintiff,**

9 **v.**

10 **WI-LAN, INC.,**

11 **Defendant.**

Case No. 5:08-cv-4555

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**SUPPLEMENTAL JOINT CASE  
MANAGEMENT STATEMENT UNDER  
FED R. CIV. P. 26(f) AND CIV. L. R. 16-9**

1 Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, Civil Local Rule 16-9, and  
2 the Court's June 4, 2009 Order Denying Defendant's Motion to Dismiss; Granting in Part and  
3 Denying in Part Defendant's Motion to Transfer, Plaintiff Intel Corporation ("Intel") and Defendant  
4 Wi-LAN, Inc. ("Wi-LAN") hereby submit the following Supplemental Joint Case Management  
5 Statement and Rule 26(f) Report.

6 **A. Summary Of Procedural Status, Jurisdiction and Service**

7 Intel filed its action pending before this Court on September 30, 2008 (the "Intel Action") for  
8 declaratory relief relating to eighteen patents. On January 15, 2008, Wi-LAN filed a Motion to  
9 Dismiss for Lack of Personal Jurisdiction, Subject Matter Jurisdiction and Improper Venue, and  
10 Motion to Transfer to First Filed Forum. On June 4, 2009, the Court issued an Order Denying  
11 Defendant's Motion to Dismiss; Granting in Part and Denying in Part Defendant's Motion to  
12 Transfer ("Order") which denied Wi-LAN's motion to dismiss, denied Wi-LAN's motion to transfer  
13 with respect to seventeen of the eighteen patents, and granted Wi-LAN's motion to transfer with  
14 respect to one patent (U.S. Patent No. 6,549,759 (the "'759 patent"). Wi-LAN's answer to Intel's  
15 complaint is due on June 18, 2009.

16 **B. Facts**

17 The Intel Action is an action for a declaratory judgment of non-infringement, invalidity, and  
18 unenforceability of seventeen United States Patents.

19 **C. Legal Issues**

20 The parties dispute legal issues raised by Intel relating to non-infringement, invalidity, and  
21 unenforceability of the seventeen patents-in-suit. Additionally, Wi-LAN contemplates seeking  
22 certification for interlocutory review as to whether the Court has subject matter jurisdiction over the  
23 present action and whether transfer of the patents-in-suit pursuant to the first-filed rule is  
24 appropriate. If Wi-LAN files the above motions, Intel plans to oppose them. The parties submit that  
25 additional factual and legal issues may arise as the case progresses.

26 **D. Motions**

27 On January 15, 2009, Wi-LAN filed a Motion To Dismiss For Lack Of Personal Jurisdiction,  
28 Subject Matter Jurisdiction And Improper Venue, And Motion To Transfer To First Filed Forum in

1 the Intel Action. As discussed in Part A above, on June 4, 2009, the Court denied in part and granted  
2 in part Wi-LAN's motion.

3 On February 23, 2009, Intel and Wi-LAN filed a Joint Motion To Enter Interim Protective  
4 Order Pending Entry of Final Protective Order in connection with discovery relating to jurisdictional  
5 issues raised by Wi-LAN's motion to dismiss/transfer. On March 5, 2009, the Court granted the  
6 parties' joint motion and entered the Interim Protective Order Pending Entry of Final Protective  
7 Order. The parties will meet and confer to agree on a Final Protective Order.

8 Wi-LAN anticipates filing a motion for certification to file an interlocutory appeal of the  
9 Court's Order Denying Defendant's Motion to Dismiss; Granting in Part and Denying in Part  
10 Defendant's Motion to Transfer, and a motion to stay the Intel DJ action pending interlocutory  
11 appeal on June 17, 2009. If Wi-LAN files the above motions, Intel plans to oppose them.

12 In addition to the above, Plaintiffs further anticipate filing motions for summary judgment of non-  
13 infringement, invalidity, and/or unenforceability with respect to the patents-in-suit.

#### 14 **E. Amendment of Pleadings**

##### 15 **1. Plaintiff Intel's Contentions**

16 As set forth in the proposed schedule attached as Exhibit A, Intel proposes that April 9, 2010  
17 be set as the deadline to amend pleadings as a matter of right for purposes other than to add patent  
18 infringement claims, including any infringement counterclaims by Wi-LAN.

19 Wi-LAN seeks to avoid the Court's P.R. 3-1 and 3-2 requirements of infringement  
20 contentions in advance of claim construction by eliminating the early infringement disclosures  
21 required by the Patent Local Rules and instead proposing a deadline for asserting infringement  
22 counterclaims in March 2011, two-and-a-half years after this action was filed and years after Wi-  
23 LAN began threatening Intel with the patents-in-suit. Moreover, in conflict with the Patent Local  
24 Rules, Wi-LAN's proposed schedule extends the deadline for Wi-LAN to assert infringement  
25 counterclaims and provide Infringement Contentions until after Claim Construction proceedings are  
26 over. This approach would result in the parties briefing (and the Court construing) numerous claims  
27 that will likely never be the subject of an infringement counterclaim by Wi-LAN, a waste of the  
28 Court's and the parties' resources.

1           **2. Defendant Wi-LAN's Contentions**

2           Wi-LAN presently lacks knowledge sufficient to form a basis for asserting infringement  
3 regarding the seventeen patents put at issue by Intel. Wi-LAN will be required to conduct discovery  
4 in order to form a basis for such counterclaims, or not, including discovery and analysis regarding  
5 Intel's complex Wi-MAX products and technologies and the issues of non-infringement, invalidity,  
6 and unenforceability raised by Intel for Wi-LAN's seventeen patents. *See IXYS Corp. v. Advanced*  
7 *Power Tech.*, 2004 U.S. Dist. LEXIS 804, at \*14 (N.D. Cal. January 22, 2004) (leave to amend to  
8 add a counterclaim should be granted with "extraordinary liberality.") Thus, Wi-LAN proposes that  
9 the deadline to amend pleadings as a matter of right, including for purposes of adding compulsory  
10 patent infringement counterclaims for the seventeen patents-in-suit, be set as March 1, 2011. *See Wi-*  
11 *LAN's Proposed Scheduling Order attached as Exhibit B.*

12           **F. Evidence Preservation**

13           The parties acknowledge their obligations regarding evidence preservation and agree to abide  
14 by such obligations.

15           **G. Disclosures**

16           The parties propose that Initial Disclosures be made on July 7, 2009.

17           **H. Discovery**

18           **1. Plaintiff's Contentions**

19           The parties intend to pursue discovery in the form of requests for production of documents  
20 and things, interrogatories, depositions, and other forms of discovery authorized by the Federal  
21 Rules. Intel proposes that the deadline to complete discovery be May 28, 2010. The parties will  
22 meet and confer in good faith to agree on reasonable limits for discovery for this action.

23           **2. Defendant Wi-LAN's Contentions**

24           Wi-LAN will require discovery and analysis regarding the issues of infringement, validity,  
25 and enforceability of the seventeen patents-in-suit in order to respond to the claims raised by Intel.  
26 Wi-LAN proposes leaving the cut-off date for discovery open at this time. The limits provided for in  
27 the Federal Rules of Civil Procedure, such as limits on depositions and the number of  
28

1 interrogatories, are too restrictive in light of the number of patents at issue and the complexity of the  
2 technologies and issues. The parties will meet and confer in good faith to agree on reasonable limits  
3 for discovery for this action.

4  
5 **I. Class Actions**

6 This is not a class action.

7 **J. Related Cases**

8 These proceedings involve five related actions:

- 9
- 10 • *Intel Corp. v. Wi-LAN, Inc.*, No. 5:08-cv-4555 (the "Intel Action") (filed September 30,  
2008)
  - 11 • *Broadcom Corp. v. Wi-LAN, Inc.*, No. 5:08-cv-05543 (the "Broadcom Action") (filed  
12 Dec. 10, 2008)
  - 13 • *Marvell Semiconductor, Inc., et al. v. Wi-LAN, Inc.*, No. 5:08-cv-05544 (the "Marvell  
14 Action") (filed Dec. 10, 2008)
  - 15 • *Acer America Corp., et al. v. Wi-LAN, Inc.*, No. 5:08-cv-05624 (the "Acer Action") (filed  
16 Dec. 17, 2008)
  - 17 • *Sony Computer Entertainment America Inc., et al. v. Wi-LAN, Inc.*, No. 5:08-cv-05742  
18 (the "Sony Action") (filed Dec. 23, 2008)

19 On January 16, 2009, this Court issued an order relating the Intel Action with the Broadcom  
20 and Marvell Actions. *See* Dkt No. 39. On February 20, 2009, this Court issued an order relating the  
21 Acer and Sony Actions to the Intel, Broadcom and Marvell Actions. *See* Dkt No. 54.

22 **K. Relief**

23 **1. Plaintiffs' Contentions**

24 Plaintiffs seek declaratory relief that (a) they do not infringe, directly or indirectly, any valid  
25 and enforceable claim of any of the respective patents-in-suit asserted against them; (b) the  
26 respective patents-in-suit are invalid; and (c) certain of the patents-in-suit are unenforceable.  
27 Plaintiffs further seek as relief a declaration that this is an exceptional case and that Plaintiffs are the  
28 prevailing parties, and an award of costs and attorneys' fees pursuant to 35 U.S.C. § 285.

1                   **2. Defendant Wi-LAN's Contentions**

2                   Wi-LAN contends that Intel is not entitled to any of the relief that it seeks. At the present  
3 time, subject to completing discovery as discussed above, Wi-LAN does not seek any affirmative  
4 substantive relief. Wi-LAN does, however, seek as relief a declaration that this is an exceptional  
5 case and that it is the prevailing party, and an award of costs and attorneys' fees pursuant to 35  
6 U.S.C. § 285.  
7

8                   **L. Settlement and ADR**

9                   The parties will explore prospects for settlement relating to this matter in accordance with  
10 ADR Local Rule requirements. All ADR deadlines were stayed by the Court's February 20, 2009  
11 Orders. The parties request that the Court lift the stay of any ADR deadlines at the June 22, 2009  
12 Case Management Conference.

13                   **M. Consent to Magistrate Judge For All Purposes**

14                   The parties do not consent to the use of a Magistrate Judge.

15                   **N. Other References**

16                   The parties do not presently believe that the case is suitable to reference to binding  
17 arbitration or a special master, or the Judicial Panel on Multidistrict Litigation.

18                   **O. Narrowing of Issues**

19                   Plaintiffs are not presently aware of particular issues to be narrowed.

20                   **P. Scheduling**

21                   **1. Plaintiffs' Contentions**

22                   Intel proposes the Proposed Scheduling Order attached as Exhibit A for the Intel Action.  
23 Intel's Proposed Scheduling Order is based on the time periods for disclosures and other deadlines  
24 set forth in the Patent Local Rules, with a Claim Construction Hearing for this matter in January or  
25 early February 2010 or on a date thereafter convenient for the Court, and trial occurring in  
26 November 2010, or on a date thereafter convenient for the Court. To accommodate Wi-LAN's  
27 desire to review Intel product documentation prior to asserting infringement counterclaims and  
28 providing Infringement Contentions, Intel's Proposed Scheduling Order includes a one month

1 extension on the deadline for Wi-LAN to assert counterclaims for infringement, during which Wi-  
2 LAN may review Intel product documentation to determine which, if any, of the patents-in-suit it  
3 intends to pursue in this case.

4 Wi-LAN seeks to avoid the Court's P.R. 3-1 and 3-2 requirements of infringement  
5 contentions in advance of claim construction by instead proposing a deadline for asserting  
6 infringement counterclaims in March 2011, two-and-a-half years after this action was filed and years  
7 after Wi-LAN began threatening Intel with the patents-in-suit. Moreover, in conflict with the Patent  
8 Local Rules, Wi-LAN's proposed schedule extends the deadline for Wi-LAN to assert infringement  
9 counterclaims and provide Infringement Contentions until after Claim Construction proceedings are  
10 over. This approach would result in the parties briefing (and the Court construing) numerous claims  
11 that will likely never be the subject of an infringement counterclaim by Wi-LAN, a waste of the  
12 Court's and the parties' resources. By contrast, requiring Wi-LAN to comply with the Patent Local  
13 Rules and assert counterclaims of infringement, if any, in accordance with Intel's proposed schedule  
14 will narrow and focus the issues.

15 With respect to Wi-LAN's arguments that the Texas Action should proceed before this  
16 action, the Texas Action and this action are independent lawsuits and the schedule in this matter will  
17 not disrupt or conflict with the Texas Action.<sup>1</sup> For several years, Wi-LAN's assertions of the  
18 patents-in-suit have created a cloud over Intel's WiMAX products, and Intel is entitled to resolve its  
19 rights in a timely and efficient manner.

20 The parties will meet and confer to adjust the proposed schedule as appropriate should the  
21 Court set the Claim Construction Hearing and trial on other dates.

## 22 **2. Defendant Wi-LAN's Contentions**

23 Wi-LAN proposes the Proposed Scheduling Order attached as Exhibit B. As set forth in  
24 Exhibit B, in accordance with the Court's Patent Local Rules, Wi-LAN proposes that a Claim  
25 Construction Hearing for this matter should occur in December 2010 or on a date thereafter

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26  
27 <sup>1</sup> Contrary to Wi-LAN's assertions below, Intel did not request a lengthy schedule in the Texas Action. The claim  
28 construction hearing and trial dates in the Texas Action were set by the Court without input from the parties.

1 convenient for the Court, and that trial in this matter should occur at a time thereafter to be  
2 determined by the Court.

3 Wi-LAN's proposal differs from Intel's because Wi-LAN will need to conduct discovery in  
4 view of the large number of patents at issue and the complexity of the Wi-MAX products and  
5 technologies (Intel already has a full command of the technologies in its own products and has had  
6 ample time to study the seventeen patents-in-suit). Such discovery will require a period well in  
7 excess of the one month suggested by Intel. Limitation of Wi-LAN's review of Intel confidential  
8 technical documents and source code to one month in a seventeen patent case would materially  
9 detract from Wi-LAN's ability to conduct a full and fair evaluation of the products at issue. Wi-  
10 LAN further notes that the possible assertion of counterclaims after the claim construction hearing  
11 would not affect the number of patents or claim terms that Intel has placed at issue. The claims  
12 remain at issue regardless of whether they are the subject of a counterclaim.

13 Wi-LAN also seeks to schedule the present action so that it will not disrupt or conflict with  
14 the current schedule in the parallel first-filed Texas action involving the same Intel Wi-MAX  
15 products, and so that it will not impose undue cost and burden on Wi-LAN, a small company. In the  
16 Texas action, the claim construction hearing is set for September 1, 2010 and jury selection is set for  
17 January 4, 2011. Intel argued for an extended schedule in the Texas Wi-MAX case (where it is a  
18 defendant) so that it would have adequate time to conduct discovery. Accordingly, it is only fair that  
19 Wi-LAN be permitted to proceed with a Markman and trial in its Texas action filed October 2007  
20 prior to proceeding to a Markman or trial in the present action filed September 2008.

21 The parties will meet and confer to adjust the other dates in the proposed schedule as  
22 appropriate upon receipt of the Court's scheduling order.

23 **Q. Trial**

24 Intel has requested a jury trial on all issues triable to a jury. Intel believes that the length of  
25 the trial will depend on the resolution of the parties' pre-trial motions, including appropriate  
26 summary judgment motions, and the parties' ability to narrow the issues. Wi-LAN believes that the  
27 duration and complexity of any trial are contingent on the number of patents at issue after the parties  
28 have conducted discovery.

1 **R. Disclosure of Non-Party Interested Entities or Persons**

2 The parties have filed Certifications of Interested Entities or Persons required by Civil Local  
3 Rule 3-16. The parties' disclosures may be found at the following docket entries: DI#2 and DI# 65.

4 Intel discloses the following persons, firms, partnerships, corporations or other entities  
5 known by them have either (i) a financial interest in the subject matter in controversy or in a party to  
6 the proceeding; or (ii) any other kind of interest that could be substantially affected by the outcome  
7 of the proceeding: the parties to this action, their customers, and users of their products.

8 Wi-LAN asserts that no persons, firms, partnerships, corporations or other entities known by  
9 it have either (i) a financial interest in the subject matter in controversy or in a party to the  
10 proceeding; or (ii) any other kind of interest that could be substantially affected by the outcome of  
11 the proceeding.  
12

13 **S. Discovery Plan Pursuant to Fed. R. Civ. P. 26(f)**

14 **1. Changes to the Timing, Form, or Requirement for Disclosures Under Rule 26(a)(1)**

15 The parties agree that the disclosures required by Rule 26(a)(1) will be made on July 7, 2009.  
16 The parties do not currently believe any modification to form of the disclosures required by Rule  
17 26(a)(1) is necessary, but reserve all rights to seek modifications and agree to confer in good faith if  
18 a need arises for additional discovery.

19 **2. The Subjects on Which Discovery May Be Needed, When Discovery Should be  
20 Completed, and Whether Discovery Should be Phased or Focused**

21 Intel will seek discovery relating to the non-infringement, invalidity and enforceability of the  
22 respective patents-in-suit. Intel believes that discovery may be completed within the time set forth in  
23 Intel's Proposed Scheduling Order, attached as Exhibit A. With respect to Wi-LAN's arguments that  
24 the Texas Action should proceed before this action, the Texas Action and this action are independent  
25 lawsuits and the schedule in this matter will not disrupt or conflict with the Texas Action. *See*  
26 Section P ("Scheduling"), *supra*.

27 Wi-LAN will seek discovery concerning the causes of actions pleaded by Intel as to each of  
28 the seventeen patents-in-suit. The parties should be permitted a lengthier schedule than is normal in

1 view of the extraordinary number of patents that Intel has put at issue in this matter, the complexity  
2 of the Wi-MAX products, technologies, and issues involved, and the existing schedule in the  
3 ongoing parallel Texas litigation between the parties filed a year earlier and involving the same Wi-  
4 MAX products. *See* Section P (“Scheduling”), *supra*.

5 **3. Any Issues Relating to Disclosure or Discovery of Electronically Stored Information**  
6 **or to Claims of Privilege**

7 The parties will meet and confer to agree to a protocol for production of electronically stored  
8 information and a proposed Final Protective Order that will address issues relating to claims of  
9 privilege.

10 **4. Changes or Additions to the Limitations on Discovery Imposed by the Local Rules**

11 The parties will meet and confer in good faith to agree on reasonable limits for discovery for  
12 this action.

13 **5. Any Other Orders That Should Be Entered by the Court**

14 As stated above, the parties will meet and confer to provide the Court with a stipulated Final  
15 Protective Order to replace the Interim Protective Order upon agreement by the parties as to form.

16 **T. Patent Local Rule 2-1 Disclosures**

17 **1. Modifications to the Obligations or Deadlines Set Forth in the Patent Local Rules**

18 Intel’s proposals concerning deadlines for the obligations set forth in the Patent Local Rules  
19 are set forth in the schedule attached as Exhibit A.

20 Wi-LAN’s proposals concerning deadlines for the obligations set forth in the Patent Local  
21 Rules are set forth in the schedule attached as Exhibit B. As explained above (*see* Section P  
22 (“Scheduling”)), Wi-LAN’s proposal extends the schedule set forth in the Patent Local Rules in  
23 view of the extraordinary number of patents at issue, the complexity of Intel’s Wi-MAX products  
24 and technologies, and the existence of ongoing parallel litigation between the parties in Texas  
25 involving the same Wi-MAX products, so as not to interfere or conflict with the ongoing Texas  
26 litigation schedule and impose undue burden and cost on Wi-LAN.

27 **2. The Scope and Timing of Claim Construction Discovery, Including Expert**  
28 **Discovery**

As set forth in the proposed schedule attached as Exhibit A, Intel proposes that the deadline

1 for claim construction discovery be on December 11, 2009. As set forth in Section P above, Intel's  
2 Proposed Schedule Order is based on the deadlines set forth in the Patent Local Rules, while  
3 accommodating Wi-LAN's desire to review Intel product documentation prior to the deadline for  
4 asserting infringement counterclaims and providing Infringement Contentions. With respect to Wi-  
5 LAN's arguments that the Texas Action should proceed before this action, the Texas Action and this  
6 action are independent lawsuits and the schedule in this matter will not disrupt or conflict with the  
7 Texas Action. *See* Section P, *supra*.

8 As set forth in the proposed schedule attached as Exhibit B, Wi-LAN proposes that the  
9 deadline for claim construction discovery will be October 22, 2010 followed by a December 2010  
10 claim construction hearing. A December 2010 claim construction hearing will permit Wi-LAN  
11 adequate time for discovery and will preserve the sequence of this action and the earlier filed Texas  
12 action without creating conflicts with the Texas Markman hearing or trial and imposing undue  
13 burden and cost on Wi-LAN.

14 The parties agree to meet and confer concerning any issues regarding the scope of claim  
15 construction discovery.

### 16 **3. The Format Of the Claim Construction Hearing**

17 At this time, Intel does not anticipate presenting live testimony at the Claim Construction  
18 Hearing, but reserve the right to do so if the need arises. Intel submits that, as plaintiff, it should  
19 present their positions first, with an opportunity for rebuttal following Wi-LAN's presentation. Intel  
20 reserves the right to present live testimony.

21 Wi-LAN reserves the right to present live testimony. As the patentee, Wi-LAN should  
22 present its positions first, with an opportunity for rebuttal following Intel's presentation.

### 23 **4. Education of the Court On the Technology at Issue**

24 The parties propose providing a technology tutorial prior to the claim construction hearing.  
25 Intel proposes that background technical tutorials may be submitted on or before January 27, 2010.  
26 Intel further proposes that a technology tutorial hearing be scheduled in January or early February  
27 2010, prior to the Claim Construction hearing.

28 Wi-LAN proposes that the technology tutorial occur at a time convenient to the Court prior

1 to the Markman hearing. The parties agree that any exhibits or other materials to be presented by a  
2 party be exchanged fourteen (14) days prior to the Claim Construction hearing.

3 With the Court's permission, Plaintiffs will meet and confer with Wi-LAN concerning an  
4 appropriate format for the technical tutorial.

5  
6  
7 DATED: June 12, 2009

/s/ Adam R. Alper

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/s/ Michael G. McManus

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Attorneys for Defendant WI-LAN, INC.

**CERTIFICATE OF SERVICE**

I hereby certify that on June 12, 2009, a true and correct copy of the foregoing SUPPLEMENTAL JOINT CASE MANAGEMENT STATEMENT UNDER FED. R. CIV. P. 26(f) AND CIV. L. R. 16-9 was electronically filed with the Clerk of the Court using the Court's CM/ECF System. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

By: \_\_\_\_\_/s/ *Adam R. Alper*  
**Adam R. Alper**

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# **Exhibit A**

1  
2 UNITED STATES DISTRICT COURT  
3 NORTHERN DISTRICT OF CALIFORNIA  
4 SAN JOSE DIVISION  
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6 Intel Corporation,

7 Plaintiff,

8 v.

9 Wi-LAN, Inc.

10 Defendant.  
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Case No. 5:08-cv-4555 JW (HRL)

**[PROPOSED] SCHEDULING  
ORDER**

1 In accordance with the case status conference held herein on the 22nd day of  
2 June, 2009, it is hereby

3 **ORDERED** that the following schedule of deadlines is in effect until further  
4 order of this Court:

5 <b>July 22, 2009</b>	Comply with Fed. R. Civ. P. 26(a)
6 <b>July 22, 2009</b>	Comply with P.R. 3-1 and 3-2; deadline 7 for Wi-LAN to allege infringement 8 counterclaims relating to 17 patents-in- 9 suit
10 <b>September 9, 2009</b>	Comply with P.R. 3-3 and 3-4
11 <b>September 22, 2009</b>	Comply with P.R. 4-1
12 <b>October 14, 2009</b>	Comply with P.R. 4-2
13 <b>November 11, 2009</b>	Comply with P.R. 4-3
14 <b>December 11, 2009</b>	Comply with P.R. 4-4. Discovery 15 deadline – claims construction issues
16 <b>December 23, 2010</b>	Comply with P.R. 4-5(a)
17 <b>January 13, 2010</b>	Comply with P.R. 4-5(b)
18 <b>January 20, 2010</b>	Comply with P.R. 4-5(c)
19 <b>January 27, 2010</b>	Deadline for submission of background 20 technology tutorials (if a party wishes to 21 submit background technology tutorial)
22 <b>To be set by Court</b>	Technical tutorial hearing at _____ 23 a.m./p.m., San Jose, California
24 <b>To be set by Court</b>	Claim construction hearing at _____ 25 a.m./p.m., San Jose, California
26 <b>30 days after claim 27 construction ruling</b>	Expert witness reports due for issues on 28 which a party bears the burden of proof.

1	<b>30 days after claim construction ruling</b>	Comply with P.R. 3-7
2		
3	<b>60 days after claim construction ruling</b>	Rebuttal expert witness reports due
4		
5	<b>April 9, 2010</b>	Amend Pleadings without Leave of Court (other than to add patent claims including infringement counterclaims)
6		
7	<b>April 23, 2010</b>	Respond to Amended Pleadings
8		
9	<b>May 28, 2010</b>	Discovery Deadline
10	<b>June 11, 2010</b>	Deadline for filing Dispositive Motions and any other motions that may require a hearing (including <i>Daubert</i> motions)
11		
12	<b>August 18, 2010</b>	Plaintiff to Identify Trial Witnesses
13		
14	<b>August 25, 2010</b>	Defendant to Identify Trial Witnesses
15	<b>September 3, 2010</b>	Mediation to be completed
16	<b>October 8, 2010</b>	Motions <i>in Limine</i> Due
17	<b>October 15, 2010</b>	Joint Pretrial Order, Joint Proposed Jury Instructions and Form of the Verdict
18		
19	<b>October 22, 2010</b>	Pretrial Conference - _____ a.m./p.m. in San Jose, California
20		
21	<b>To be set by Court</b>	Jury Selection - 9:00 a.m. in San Jose, California
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1 Dated:

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Honorable James Ware  
United States District Judge

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# **Exhibit B**

1  
2 UNITED STATES DISTRICT COURT  
3 NORTHERN DISTRICT OF CALIFORNIA  
4 SAN JOSE DIVISION  
5

6 Intel Corporation,

7 Plaintiff,

8 v.

9 Wi-LAN, Inc.

10 Defendant.  
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Case No. 5:08-cv-4555 JW (HRL)

**[PROPOSED] SCHEDULING  
ORDER**

1 In accordance with the case status conference held herein on the 22nd day of  
2 June, 2009, it is hereby

3 **ORDERED** that the following schedule of deadlines is in effect until further  
4 order of this Court:

5	Patent L.R. 3-3 Invalidity Contentions and Patent L.R. 3-4 Document Production Accompanying Invalidity Contentions	July 2, 2009
6		
7	Fed. R. Civ. P. 26(a)(1) Initial Disclosures	July 7, 2009
8	Patent L.R. 4-1 Exchange of Proposed Terms for Construction	August 2, 2010
9		
10	Patent L.R. 4-2 Exchange of Preliminary Claim Constructions and Extrinsic Evidence	August 23, 2010
11		
12	Patent L.R. 4-3 Joint Claim Construction and Prehearing Statement	September 22, 2010
13		
14	Patent L.R. 4-4 Completion of Claim Construction Discovery	October 22, 2010
15		
16	Patent L.R. 4-5 Claim Construction Briefs Tutorial	November 8, 2010 December 2010
17	Patent L.R. 4-6 Claim Construction Hearing	December 2010
18	Last Day to Amend Pleadings/Add Parties	March 1, 2011
19	Fact Discovery Cut-off	TBD
20	Disclosure of Identity of Liability Experts	TBD
21	Written Expert Reports Due	TBD
22	Rebuttal Expert Reports Due	TBD
23	Expert Discovery Cut-off	TBD
24	Deadline for Filing Dispositive Motions	TBD
25	Pretrial Conference	TBD
26	Trial	TBD
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Dated:

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Honorable James Ware  
United States District Judge