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Via Electronic Filing
Judge Albright
U.S. District Court for the Western District of Texas
800 Franklin Ave., Room 301
Waco, Texas 76701

Re: Discovery and Briefing Schedule for *Future Link Systems, LLC v. Realtek Semiconductor Corp.*, Case Nos. 6:21-cv-0363-ADA, 6:21-cv-01353-ADA

Dear Judge Albright and Law Clerks:

I write to ask the Court for a briefing and discovery schedule on an issue that the Federal Circuit remanded for this Court's determination and to explain why discovery and the requested schedule are necessary to correct the misleading and incomplete record that was put before the Court by Future Link. The Federal Circuit recently issued a published opinion in *Future Link Systems, LLC v. Realtek Semiconductor Corporation*, vacating-in-part, affirming-in-part, and remanding to this Court. ---F.4th ---, Nos. 2023-1056, 2023-1057, 2025 WL 2599581 (Fed. Cir. Sept. 9, 2025). Noting that this Court "awarded sanctions" when it "converted [Future Link's] voluntary dismissal" of the above-captioned suits "to a dismissal *with prejudice*," *id.* at *4 (emphasis added), the Federal Circuit held that Realtek was the prevailing party in these suits. The Federal Circuit then "remand[ed] for the district court to consider whether" Future Link's suits were so "exceptional" that an award of post-judgment costs and fees would be "appropriate" under 35 U.S.C. § 285, and to explain any departure from the presumption that a prevailing party will be awarded costs under Federal Rule 54(d)(1). *Id.*

Realtek's requested discovery is relevant to showing the "exceptional" nature of Future Link's suits.[1] *See* 2025 WL 2599581 at *4. As further described below, while this matter was pending before the Federal Circuit, Realtek learned that Future Link—though not its counsel, *see* June 3, 2022 Tr. 11:18:17-11:20-25—had misled this Court and Realtek about the licensing agreement that Future Link cited as the basis for its motion to voluntarily dismiss these suits. Realtek's requested discovery will show that there was no agreement between Future Link and ARM, but instead a separate agreement with a third party RPX based on over 300 unrelated patents. This discovery is tailored to these undisclosed material facts to ensure that this Court receives a full and accurate factual picture of Future Link's exceptional behavior. *See AdjustaCam, LLC v. Newegg, Inc.*, 861 F.3d 1353, 1360 (Fed. Cir. 2017) (finding of non-exceptionality on remand reversed for failure to "actually assess the totality of the circumstances," including new arguments raised on remand).

[1] Discovery Dispute Chart, attached as Exhibit B.

A prompt schedule is necessary to prevent Future Link's misuse of these proceedings to achieve a manifestly unjust outcome in a parallel antitrust lawsuit. In brief, Future Link sued Realtek in this Court pursuant to an "improper contract" in which Realtek's dominant competitor, MediaTek, offered to pay Future Link $1 million to extract a licensing fee from Realtek or else sue, without "requir[ing] the litigation against Realtek to have any merit." Omnibus Order and Mem. Op (ECF No. 80) at 16.[2] Your Honor described the agreement—where "X party would pay Y party to file a lawsuit against Z party that was meritless, just for the purpose of being anticompetitive"—as supporting a claim for Realtek if it amounted to conduct that was "in fact, anticompetitive." June 3, 2022 Tr. 10:41:15-10:42:24; *see also Allied Tube & Conduit Corp. v. Indian Head, Inc.*, 486 U.S. 492, 499-500 (1988) ("abuses of administrative or judicial processes . . . may result in antitrust violations").

Realtek subsequently filed an antitrust lawsuit against Future Link, MediaTek, and IPValue Management Inc. (Future Link's parent company) based on the improper agreement and other associated conduct. *See Realtek Semiconductor Corp., v. MediaTek Inc., et al.*, No. 5:23-cv-02774-PCP (N.D. Cal). The Department of Justice has recognized the importance of Realtek's antitrust lawsuit, filing a Statement of Interest (attached as Exhibit A) "to underscore the anticompetitive potential and the *unprecedented nature*—for *Noerr-Pennington* purposes—of the litigation bounty agreement described" in Realtek's complaint. Ex. A at 2 (emphasis added). The DOJ specifically noted that courts reviewing Future Link's patent claims against Realtek, including this Court, have been "alarm[ed] upon seeing the bounty provision, stating it is 'improper' and 'should be discouraged as a matter of public policy,' expressing that it creates an 'improper motive' to file suit such that it 'warrants sanctions,' and that 'it is difficult to imagine how it could possibly be lawful or enforceable' and 'would seem to warrant an action for unfair competition.'" *Id.* (quoting Omnibus Order at 16-17; Order No. 11 at 3, *In re Certain Integrated Circuit Products and Devices Containing the Same*, ITC Inv. No. 337-TA-1295 (Apr. 12, 2022) (alterations adopted)). The DOJ's interest alone underscores the importance of this case.

Future Link is now engaging in gamesmanship across this Court and the court hearing Realtek's antitrust claims to avoid discovery into the facts surrounding the anticompetitive agreement and Future Link's associated conduct. It previously argued to this Court that its anticompetitive conduct is outside the scope of the patent litigation here. Pl.'s Opp. to Def.'s Mot. for Leave to File Supp Br. (ECF Nos. 64 (filed under seal), 67 (redacted)). But in the court hearing Realtek's antitrust lawsuit, it is arguing that Realtek's anticompetitive practices claims are precluded by this Court's rulings. *See* Defs.' Admin. Mot. for Leave to File an Add'l Mot. for Summ. J., *Realtek v. MediaTek*, No. 5:23-cv-02774-PCP, ECF No. 269, at 2-3 (N.D. Cal. Sept. 17, 2025); *but see Octane Fitness, LLC v. ICON Health & Fitness, Inc.*, 572 U.S. 545, 549, 554-56 (2014) (explicitly differentiating the *Noerr-Pennington* exception to antitrust liability from whether a case is exceptional under 35 U.S.C. § 285, which is based on the "totality of the circumstances" in order to address "unfairness or bad faith in the conduct of the losing party, or some other equitable consideration of similar force" (citation omitted)).

Specifically, following the Federal Circuit's ruling, Future Link—joined by MediaTek and IPValue—sought leave to move for early summary judgment in the antitrust lawsuit, arguing that

[2] All ECF numbers in this Court refer to Case No. 6:21-cv-0363-ADA.

this Court's denial of Rule 11 monetary sanctions precludes Realtek's anticompetitive practices claims. In essence, Future Link is trying use the proceeding before this Court to immunize its conduct from antitrust scrutiny and avoid having a court assess the anticompetitive nature and effect of the improper agreement that animated its patent suits.

Notably, the rulings of this Court and the Federal Circuit were at least partially based on Future Link's representations that ARM Holdings, an upstream supplier of Realtek's, had found Future Link's patent infringement claims "sufficiently meritorious" to justify "obtain[ing] a license to the patents" for a fee "well in excess of $10 million." Pl.'s Opp. to Def.'s Mot. for Attorneys' Fees and Costs (ECF Nos. 65 (filed under seal), 68 (redacted)) 11-12. Future Link argued that "no rational actor would pay those kind of substantial license fees . . . for claims that were objectively baseless." *Id.* at 12.

Since the dismissal of Future Link's cases in this Court, however, Realtek has learned that there was no agreement between Future Link and ARM. Rather, the licensing agreement referenced by Future Link was with RPX, *an entirely different entity than ARM Holdings*. RPX is a "defensive" patent portfolio company that acquires patents from third parties such as "offensive" patent assertion entities like Future Link and then offers its members licenses to the portfolio as protection against patent infringement claims.[3] In what appears to have been a nuisance-value settlement, the agreement with RPX licensed *more than 300 patents* to RPX, which then sub-licensed the 300+ patents to several additional companies (but not Realtek).

Importantly, Future Link never disclosed the specific contents of the RPX agreement to this Court or the Federal Circuit—or, apparently, informed its counsel of the import of the agreement, *see* June 3, 2022 Tr. 11:18:17-11:20-25. Nor did it disclose that the patents at issue here represented a tiny slice of a broad patent portfolio rather than a specifically-valued patent license or that Future Link subsequently cancelled the same patent claims at issue in the cases before this Court while PTAB *inter partes* review was pending—just three days before this Court issued its Omnibus Order in these cases. *See* First Amended Complaint, *Realtek v. MediaTek*, No. 5:23-cv-02774-PCP, ECF No. 169, ¶¶ 130, 138 (N.D. Cal Sept. 20, 2024); Future Link Systems' Answer, *Realtek v. MediaTek*, No. 5:23-cv-02774-PCP, ECF No. 238 ¶¶ 130, 138 (N.D. Cal. Apr. 4, 2025); *see also* Omnibus Order and Mem. Op.

Realtek and Future Link are now briefing Future Link's early summary judgment motion in the antitrust lawsuit—and addressing whether the ongoing proceedings in this Court may have a preclusive effect on Realtek's antitrust claims. Future Link, IPValue, and MediaTek's motion is due October 24; Realtek's opposition is due November 7; and any reply will be due November 14.

In respect of the schedule set by the court in the parallel antitrust case, Realtek proposes the following discovery and briefing schedule, set to begin now that the Federal Circuit's mandate has issued:

- **October 30, 2025**: Future Link's deadline to produce the narrow set of documents requested by Realtek
- **November 6, 2025**: Realtek's opening brief due

[3] *See, e.g.*, RPX Corp., *About*, https://www.rpxcorp.com/about/ (last accessed Oct. 13, 2025).

- **December 1, 2025**: Future Link's response brief due
- **December 8, 2025**: Realtek's reply brief due
- Realtek proposes that Realtek's opening brief and Future Link's response be limited to 10 pages (exclusive of the caption, signature block, any certificate, and accompanying documents), and Realtek's reply be limited to 5 pages (also exclusive of the caption, signature block, any certificate, and accompanying documents).

Realtek has proposed this discovery and briefing schedule to Future Link, which indicated it opposes this schedule. Prior to that, Realtek sent requests that Future Link produce four categories of documents.[4] Future Link responded to these requests by noting that "the Federal Circuit has not yet issued the mandate in this case" and stating that "nothing in the Federal Circuit's decision suggests that discovery is somehow re-opened in this matter, nor that any of [Realtek's] requests . . . are appropriate."[5] Future Link proposed that each party should submit a single brief due 14 days after the Federal Circuit mandate issues, with no further additional briefing.[6] Realtek opposes that limited briefing with no discovery as wholly inadequate for the reasons mentioned.

Promptly proceeding to determine whether these cases are "exceptional" on a proper record will aid the court in the antitrust lawsuit as it evaluates the agreement and conduct that your Honor recognized as an "improper contract that should be discouraged as a matter of public policy." Omnibus Order and Mem. Op at 16.

Sincerely,

CHERRY JOHNSON SIEGMUND JAMES, PC

Mark D. Siegmund

[4] Discovery Dispute Chart, attached as Exhibit B.
[5] Future Link Counsel's Oct. 7, 2025 Email, attached as Exhibit C.
[6] Future Link Counsel's Oct. 14, 2025 Email, attached as Exhibit C.