IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ALCATEL USA RESOURCES, INC. a Delaware Corporation, and ALCATEL INTERNETWORKING, INC., a California Corporation, Plaintiffs, v. FOUNDRY NETWORKS, INC., a Delaware Corporation, Defendant.	)	Civil Action No. 05-418-SLR (JURY TRIAL DEMANDED)

[PROPOSED] FIRST AMENDED SCHEDULING ORDER

WHEREAS, in its Order of June 14, 2006 (D. I. 73), the Court amended the discovery schedule in this case, setting certain of the new dates and directing the parties to reach agreement regarding the remaining dates; now therefore,

IT IS HEREBY ORDERED that, the Scheduling Order entered on October 12, 2005 (D.I. 25) is amended as follows but otherwise shall remain in full force and effect:

1. All fact discovery shall be commenced in time to be completed by October 16, 2006.

2. Expert discovery shall be commenced in time to be completed by December 18, 2006, but shall not commence before November 27, 2006, absent agreement of the parties or order of the Court.

(a) Expert reports on issues for which the parties have the burden of proof due October 30, 2006. Rebuttal expert reports due November 22, 2006.

(b) All *Daubert* motions shall be filed on or before February 23, 2007.

3. **Amendment of Pleadings**. All motions to amend the pleadings in connection with the Phase One patents shall be filed on or before **August 25, 2006 (Foundry proposal); July 12, 2006 (Alcatel proposal)**.

4. **Claim Construction Issue Identification.** If the court does not find that an earlier claim construction would be helpful in resolving the case, on October 16, 2006, the parties shall exchange lists of those claim terms that they believe need construction and their proposed claim construction of those terms. This document will not be filed with the Court. Subsequent to exchanging such lists, the parties will meet and confer to prepare a Joint Claim Construction Statement to be submitted pursuant to paragraph 6 below.

5. **Summary Judgment Motions.** All summary judgment motions shall be served and filed with an opening brief on or before January 16, 2007. All briefs in opposition to summary judgment shall be served and filed on or before February 9, 2007. All replies shall be served and filed on or before **February 20, 2007 (Foundry proposal); February 16, 2007 (Alcatel proposal)**. Briefing shall be pursuant to D. Del. LR 7.1.2, except as set forth in this paragraph. No summary judgment motion may be filed more than **ten (10)** days from the above date without leave of the Court.

6. **Claim Construction.** The parties shall agree upon and file the Joint Claim Construction Statement on January 8, 2007, with the claim chart separately docketed. The parties will file simultaneous opening claim construction briefs on January 16, 2007. Simultaneous reply briefs should be filed by February 9, 2007. Issues of claim construction shall be considered by the court in conjunction with summary judgment motion (s). The hearing on the claim construction and motion (s) for summary judgment will be heard on February 23, 2007 at 9:30 a.m.

SO ORDERED, this _____ day of _____, 2006.

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United States District Judge

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