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Attorneys for Defendant
Carrier IQ, Inc.

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13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN JOSE DIVISION

17 ROWENA SILVERA and ANDREW
 SANDERS, Individually, and on Behalf of all
 18 Similarly Situated Persons,

19 Plaintiffs,

20 v.

21 CARRIER IQ, INC., SAMSUNG
 ELECTRONICS AMERICA, INC., HTC
 22 AMERICA INC., AT&T, INC. SPRINT
 COMMUNICATIONS COMPANY, L.P., JOHN
 23 DOE MANUFACTURERS (1-10), JOHN DOE
 CARRIERS (1-10),

24 Defendants.
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CASE NO. 5:11-CV-05821-EJD

**STIPULATION RE: EXTENSION OF
 TIME FOR DEFENDANT CARRIER
 IQ, INC. TO RESPOND TO
 COMPLAINT AND [PROPOSED]
 ORDER EXTENDING TIME TO
 RESPOND TO COMPLAINT**

STIPULATION TO EXTEND TIME
TO RESPOND TO COMPLAINT

CASE NO. 5:11-CV-05821-EJD

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WHEREAS the above-referenced plaintiffs filed the above-captioned case;
WHEREAS the above-referenced plaintiffs allege violations of the Federal Wiretap Act and other laws by the defendants in this case;

WHEREAS over 50 other complaints have been filed to-date in federal district courts throughout the United States by plaintiffs purporting to bring class actions on behalf of cellular telephone and other device users on whose devices software made by defendant Carrier IQ, Inc. is or has been embedded (collectively, including the above-captioned matter, the “CIQ cases”);

WHEREAS, a motion is pending before the Judicial Panel on Multidistrict Litigation to transfer the CIQ cases to this jurisdiction for coordinated and consolidated pretrial proceedings pursuant to 28 U.S.C. Sec. 1407, and responses to the motion supporting coordination or consolidation have been filed;

WHEREAS plaintiffs anticipate the possibility of one or more consolidated amended complaints in the CIQ cases;

WHEREAS plaintiffs and defendant Carrier IQ have agreed that an orderly schedule for any response to the pleadings in the CIQ cases would be more efficient for the parties and for the Court;

WHEREAS plaintiffs agree that the deadline for defendant Carrier IQ to answer, move, or otherwise respond to their complaint shall be extended until the earliest of the following dates: (1) forty-five days after the filing of a consolidated amended complaint in the CIQ cases; or (2) forty-five days after plaintiffs provide written notice to defendants that plaintiffs do not intend to file a consolidated amended complaint; or (3) as otherwise ordered by this Court or the MDL transferee court; *provided*, however, that in the event that Carrier IQ should agree to an earlier response date in any of these cases, Carrier IQ will respond to the complaint in the above-captioned action on that earlier date;

WHEREAS this Stipulation does not constitute a waiver by Carrier IQ of any defense, including but not limited to the defenses of lack of personal jurisdiction, subject matter

1 jurisdiction, improper venue, sufficiency of process or service of process;

2 WHEREAS, this Stipulation does not constitute a waiver by plaintiffs to move for
3 a preliminary injunction, motion for expedited discovery or any other pre-answer motion against
4 Carrier IQ or any other defendant, and Carrier IQ agrees that this Stipulation shall not be the basis
5 for objection to said motions; and

6 WHEREAS, this Stipulation does not constitute a waiver by Carrier IQ of any
7 defense or objection to any motion for a preliminary injunction, motion for expedited discovery
8 or any other pre-answer motion filed by plaintiffs, including but not limited to moving to stay the
9 action; and

10 WHEREAS, plaintiffs and defendant Carrier IQ, agree that preservation of
11 evidence in the CIQ cases is vital, that defendants have received litigation hold letters, that they
12 are complying with and will continue to comply with all of their evidence preservation
13 obligations under governing law, and that that the delay brought about by this Stipulation should
14 not result in the loss of any evidence,

15 Now, therefore, pursuant to Civil Local Rule 7-12, plaintiffs in the above-
16 referenced case and defendant Carrier IQ, by and through their respective counsel of record,
17 hereby stipulate as follows:

- 18 1. The deadline for Carrier IQ to answer, move, or otherwise respond to plaintiffs'
19 complaint shall be extended until the earliest of the following dates: forty-five
20 days after the filing of a consolidated amended complaint in these cases; or forty-
21 five days after plaintiffs provide written notice to defendant Carrier IQ that
22 plaintiffs do not intend to file a Consolidated Amended Complaint; or as otherwise
23 ordered by this Court or the MDL transferee court; *provided*, however, that in the
24 event that Carrier IQ should agree to an earlier response date in any of these cases,
25 except by court order, Carrier IQ will respond to the complaint in the above-
26 captioned case on that earlier date.

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- 2. This Stipulation does not constitute a waiver by Carrier IQ of any defense, including but not limited to the defenses of lack of personal jurisdiction, subject matter jurisdiction, improper venue, sufficiency of process, or service of process.
- 3. As a condition of entry into this Stipulation, defendant Carrier IQ and the plaintiffs, agree that they are complying with and will continue to comply with all evidentiary preservation obligations under governing law.

IT IS SO STIPULATED.

DATED: December 28, 2011

SKIKOS, CRAWFORD, SKIKOS & JOSEPH
LLP

By: /s/ Mark G. Crawford
Steven J. Skikos
Mark G. Crawford

Attorneys for Plaintiffs

DATED: December 28, 2011

FENWICK & WEST LLP

By: /s/ Tyler G. Newby
Tyler G. Newby

Attorneys for Defendant
Carrier IQ, Inc.

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26 DOE MANUFACTURERS (1-10), JOHN DOE
27 CARRIERS (1-10),


28 Defendants.

Case No.: CV-11-05821-EJD

~~PROPOSED~~
[PROPOSED] ORDER GRANTING
STIPULATION RE CONTINUANCE
OF TIME FOR DEFENDANT TO
RESPOND TO COMPLAINT AND
[PROPOSED] ORDER EXTENDING
TIME TO RESPOND TO COMPLAINT

Pursuant to stipulation, it is SO ORDERED.

Dated: December 29, 2011


Honorable Edward J. Davila
United States District Judge

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CERTIFICATION

I, Tyler G. Newby, am the ECF User whose identification and password are being used to file this **STIPULATION AND [PROPOSED] ORDER RE: CONTINUANCE OF TIME FOR DEFENDANT TO RESPOND TO COMPLAINT**. In compliance with General Order 45.X.B, I hereby attest that Mark G. Crawford has concurred in this filing.

DATED: December 28, 2011 By /s/ Tyler G. Newby _____
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