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14 *Attorneys for Defendant Acer America Corporation*

15 **UNITED STATES DISTRICT COURT**
 16 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

18 LORA and CLAY WOLPH, on behalf of
 themselves and all others similarly situated,
 19
 Plaintiffs,
 20
 v.
 21
 ACER AMERICA CORPORATION, a
 22 California corporation,
 23
 Defendant.

Case No. CV 09 1314 JSW
 CLASS ACTION

**JOINT STIPULATION AND AMENDED
 [PROPOSED] ORDER REGARDING
 PLAINTIFFS' MOTION FOR CLASS
 CERTIFICATION**

24
 25 Plaintiffs LORA AND CLAY WOLPH ("PLAINTIFFS") and Defendant ACER AMERICA
 26 CORPORATION ("DEFENDANT") hereby enter the following Joint Stipulation and [Proposed] Order
 27 Regarding Plaintiffs' Motion for Class Certification ("Order") in the above-captioned proceeding:
 28

1 WHEREAS on April 15, 2010 the Court entered an Order Regarding Plaintiffs' Motion for Class
2 Certification and Mediation Completion Date ("Continuance Order"). *See* Docket No. 78. The current
3 briefing schedule pursuant to the Continuance Order requires PLAINTIFFS to file their Motion for
4 Class Certification on July 22, 2010, DEFENDANT to file its Opposition to PLAINTIFFS' Motion for
5 Class Certification on September 21, 2010; PLAINTIFFS to file their Reply to DEFENDANT'S
6 Opposition on October 21, 2010, and sets the hearing for PLAINTIFFS' Motion for Class Certification
7 on Friday, December 10, 2010 at 9:00 a.m.;

8 WHEREAS at the time of the Continuance Order the parties tentatively scheduled the following
9 discovery to be completed in May 2010: (1) DEFENDANT'S search and production of all relevant
10 documents requested by PLAINTIFFS; (2) the production of documents in the possession, custody or
11 control of the Taiwanese corporation Acer, Inc.; and (3) the production of documents subpoenaed by
12 PLAINTIFFS from Microsoft Corporation;

13 WHEREAS since entry of the Continuance Order, all of the aforementioned discovery is not yet
14 complete and some of those items are the subject of ongoing meet and confers;

15 WHEREAS, since entry of the Continuance Order, DEFENDANT has produced additional
16 documents and electronically stored information; DEFENDANT has responded to the written
17 discovery propounded by PLAINTIFFS; PLAINTIFFS have taken the depositions of two (2) of
18 DEFENDANT'S F.R.C.P. 30(b)(6) designees in Austin, Texas and San Francisco, California;
19 PLAINTIFFS issued a subpoena duces tecum and received an initial document production from
20 Microsoft Corporation consisting of 363 pages; PLAINTIFFS have taken the deposition of Microsoft
21 Corporation's designee in Bellevue, Washington; DEFENDANT has taken the depositions of the
22 PLAINTIFFS in Fostoria, Ohio; and the parties met and conferred numerous times regarding
23 outstanding issues relating to the DEFENDANT'S document production;

24 WHEREAS after several discussions, the parties have been able to resolve some discovery
25 disputes and DEFENDANT is in the process of reviewing and producing additional materials and
26 scheduling additional depositions;

27 WHEREAS the parties have been unable to resolve some outstanding issues concerning
28

1 DEFENDANT’S production of documents to PLAINTIFFS and the parties intend to have an in person
2 meet and confer conference and, if necessary, file a joint letter regarding the discovery disputes
3 pursuant to this Court’s Civil Standing Order Number 7;

4 WHEREAS the documents produced by Microsoft Corporation in response to PLAINTIFFS'
5 subpoena were extremely limited requiring the initiation of another meet and confer process to obtain
6 the requested documents. Furthermore, PLAINTIFFS contend that the witness produced by Microsoft
7 Corporation on July 2, 2010, was not prepared to testify regarding all subjects as noticed and are
8 working with counsel for Microsoft Corporation to produce an additional witness and serve an
9 additional subpoena; and

10 WHEREAS pursuant to the parties’ meet and confer discussions, the parties agree that
11 PLAINTIFFS' Motion for Class Certification should again be continued pending resolution of the
12 aforementioned discovery issues.

13 THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

- 14 1. PLAINTIFFS’ Motion for Class Certification shall be filed on October 18, 2010;
- 15 2. DEFENDANT’S Opposition to PLAINTIFFS’ Motion for Class Certification shall
16 be filed on December 17 , 2010;
- 17 3. PLAINTIFFS’ Reply to DEFENDANT’S Opposition to PLAINTIFFS’ Motion for
18 Class Certification shall be filed on January 31, 2011
- 19 4. The hearing date on PLAINTIFFS’ Motion for Class Certification shall be set for
20 Friday, February 25 at 9:00 a.m. or as soon thereafter at this matter may be heard.

21 **IT IS SO STIPULATED**

22 DATED: July 7, 2010

23 /s/
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Pursuant to General Order 45, I, Daniel L. Warshaw attest that Chad Stegeman has provided his authority and concurrence to file the instant document and place his electronic signature on the document, as set forth below.

Attorneys for Plaintiffs and the Proposed Class

1 DATED: July 7, 2010

/s/

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Attorneys for Defendant Acer America Corporation

10
11 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

12 Dated: July 19, 2010



Honorable Jeffrey S. White
UNITED STATES DISTRICT COURT