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11 **UNITED STATES DISTRICT COURT**
 12 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

14 LORA AND CLAY WOLPH, on behalf of
 15 themselves and all others similarly situated,
 16 **Plaintiffs,**
 17 vs.
 18 ACER AMERICA CORPORATION, a
 19 California corporation,
 20 **Defendant.**

CASE NO. CV-09-01314 JSW
 (Assigned to the Honorable Jeffrey S. White)
CLASS ACTION AMENDED
JOINT STIPULATION AND [~~PROPOSED~~]
ORDER CONTINUING BRIEFING
SCHEDULE CONCERNING
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION

[Complaint Filed: March 25, 2009]
 Trial Date: None

23 Plaintiffs LAURA and CLAY WOLPH ("Plaintiffs") and Defendant ACER AMERICA
 24 CORPORATION ("Defendant") hereby enter into the following Joint Stipulation and [Proposed]
 25 Order regarding Plaintiffs' motion for class certification ("Order") in the above-captioned
 26 proceeding:

27 WHEREAS, on July 9, 2010, pursuant to a previous stipulation and order (Docket No. 81),
 28 the Court set the following schedule regarding Plaintiffs' motion for class certification:

- 1 • Plaintiffs’ motion for class certification shall be filed on October 18, 2010;
- 2 • Defendant’s opposition to Plaintiffs’ motion for class certification shall be filed on
- 3 December 17, 2010;
- 4 • Plaintiffs’ reply to Defendant’s opposition to Plaintiffs’ motion for class
- 5 certification shall be filed on January 31, 2011; and
- 6 • The hearing date on Plaintiffs’ motion for class certification is set for February 15,
- 7 2011 at 9:00 a.m.

8 WHEREAS, Plaintiffs recently discovered that an unrelated class action against Acer
 9 America Corporation is pending in the Northern District entitled *Embry v. Acer America*
 10 *Corporation*, Case No. 09-CV-01808. Plaintiffs believe the Declaration of Mark Groveunder filed
 11 by Acer in the *Embry* matter may lead Plaintiffs to discover potentially relevant documents
 12 relating to class certification. See, Declaration of Mark Groveunder in *Embry v. Acer America*
 13 *Corp.*, Docket No. 83-2. Acer does not believe there are additional documents relevant to class
 14 certification, but has agreed to search for six broad categories of subject matter provided by
 15 Plaintiffs, and to produce Mr. Groveunder for deposition if necessary. Acer estimates that it will
 16 take approximately two weeks to gather and produce the aforementioned documents to Plaintiffs.
 17 The parties anticipate setting the Groveunder deposition shortly after the production of documents.

18 WHEREAS, Plaintiffs set the deposition of Kevin Chang for October 8, 2010, and later
 19 requested that Mr. Chang, who is located in Taiwan, respond under oath to written questions in
 20 lieu of the deposition. Mr. Chang agreed to respond to the written questions. Plaintiffs believe the
 21 responses may be relevant to class certification.

22 WHEREAS, counsel for Acer in the *Wolph* matter¹ has agreed to obtain and produce these
 23 documents on an expedited basis. Further, Acer has stipulated to the deposition of Kevin Chang,
 24 an employee of Acer, Inc. via written questions. Acer estimates that the written responses will be
 25 served by October 27, 2010.

26 _____

27 ¹ Akin Gump Strauss Hauer & Feld LLP does not represent Acer America Corporation in the
 28 *Embry* matter.

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1 WHEREAS, pursuant to the parties' meet and confer discussions, the parties agree that
2 Plaintiffs' motion for class certification should again be continued for approximately one month
3 pending the production of documents from Acer and responses to the written deposition of Kevin
4 Chang of Acer, Inc.

5 THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

- 6 1. Plaintiffs' motion for class certification shall be filed on November 22, 2010;
- 7 2. Defendant's opposition to Plaintiffs' motion for class certification shall be filed on
8 January 24, 2011;
- 9 3. Plaintiffs' reply to Defendant's opposition to Plaintiffs' motion for class
10 certification shall be filed on ^{February 25,} ~~March 7,~~ 2011; and
- 11 4. The hearing date on Plaintiffs' motion for class certification shall be set for Friday,
12 March 18, ~~2010~~ 2011, at 9:00 a.m. or as soon thereafter as the matter may be heard.

13 **IT IS SO STIPULATED.**

14
15 DATED: October 14, 2010

_____/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

DATED: October 14, 2010

_____/s/_____
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Attorneys for Defendant Acer America Corporation

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: October 15 , 2010



Honorable Jeffrey S. White
UNITED STATES DISTRICT COURT