ANNE HIARING HOCKING, Esq. State Bar No. 88639 KRISTIN NEWMAN DE LA VEGA, Esq. State Bar No. 232628 Law Office of Anne Hiaring 711 Grand Avenue, Suite 260 San Rafael, CA 94901 Telephone: (415) 457-2040 Facsimile: (415) 457-2822 Email: anne@hiaringlaw.com 5 Attorneys for Defendant SUNWARE COMPUTER INC. 7 8 IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA 9 SAN FRANCISCO DIVISION 10 SUN MICROSYSTEMS, INC., Case No. C 09-03564 MHP a Delaware corporation, 11 SECOND STIPULATION AND **IPROPOSED** ORDER EXTENDING 12 Plaintiff.) SUNWARE COMPUTER INC.'S TIME TO ANSWER COMPLAINT AND 13 VS. **EXTENDING INITIAL CASE** MANAGEMENT CONFERENCE AND 14 SUNWARE COMPUTER, INC., ADR DEADLINES a California corporation, [Fed. R. Civ. P. 6(b)] 15 Defendant. 16 17 Plaintiff Sun Microsystems, Inc. filed its Complaint for Damages and Injunctive Relief 18 19 on August 4, 2009 against Sunware Computer, Inc. 20 Plaintiff served Sunware Computer, Inc. on August 6, 2009. The proof of service has 21 not yet been filed. On August 19, 2009, both Parties stipulated to a thirty (30) day extension of 22 time by which Defendant is to respond to the Complaint. The Court approved this extension on 23 August 20, 2009 [Docket No. 7] and Defendant now has until September 25, 2009 to file its 24 response. 25 SECOND STIPULATION AND [PROPOSED] ORDER EXTENDING DEFENDANT'S TIME TO ANSWER COMPLAINT AND EXTENDING INITIAL CMC AND ADR DEADLINES CASE NO. C 09-03564 MHP - 1 -

Since that time, the Parties have reached a resolution but require additional time to finalize the resolution. As such, the Parties have agreed to a further thirty-day extension of time as to both Defendant's time to respond to the Complaint and the associated Case Management and ADR deadlines.

## I. <u>DEFENDANT'S TIME TO ANSWER</u>

The Parties stipulate and respectfully request that the time within which Defendant may respond to the Complaint filed by Plaintiff be extended by this Court from September 25, 2009 to October 25, 2009 or such date as this Court may order.

The Parties believe good cause exists for the Court to grant an extension of time for Sunware Computer, Inc. to respond to Plaintiff's Complaint because the Parties are in the final stages of formalizing a resolution.

# II. CASE MANAGEMENT AND ALTERNATIVE DISPUTE RESOLUTION DEADLINES

The Parties further stipulate and respectfully request that this Court also extend by thirty (30) days, or as soon thereafter as the Court deems convenient, the initial case management and alternative dispute resolution deadlines as set forth in this Court's Order dated August 20, 2009 [Docket No. 7] as follows:

- 1. Last day to meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan; file joint ADR Certification with Stipulation to ADR Process or notice of Need for ADR Phone conference is extended to December 25, 2009;
- Last day to complete initial disclosures or state objection in Rule 26(f) Report,
   file Case Management Statement and file/serve Rule 26(f) Report is extended to January 8,
   2010; and

1	3. Case Management Conference	(CMC) in Courtroom 15, 18 <sup>th</sup> Floor, San
2	Francisco at 4:00 p.m. is extended to January	25 אָל, 2010.
3	The Parties believe good cause exists	for the Court to grant an extension of time of the
4	case management and alternative dispute reso	olution deadlines because the Parties only require
5	additional time to finalize resolution of this m	natter.
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7		D
8		Respectfully Submitted,
9		LAW OFFICE OF ANNE HIARING
10	DATED: 37 73 09	By:
11		Anne Hiaring Hocking, Esq. Kristin De La Vega, Esq.
12		Attorneys for Defendant
13		
14	STIPULATED TO	FENWICK & WEST LLP
15	DATED:	By: Well
16		Eric Ball, Esq. Jedediah Wakefield, Esq.
17	·	Attorneys for Plaintiff
18	IT IS SO ORDERED.	TES DISTRICT
19	DATED:9/25/09	STA
20	z.	HON MARY ORDERED BY IT IS SO ORDERED get
21		IT IS SO OTED
22		Judge Marilyn H. Patel
23		
24		
25		DISTRICT OF CE

#### **PROOF OF SERVICE**

### STATE OF CALIFORNIA, COUNTY OF MARIN

I am employed in the County of Marin, State of California; my business address is 711 Grand Avenue, Suite 260, San Rafael, California 94901; I am over the age of 18 and not a party to the within action. On this date I served the following documents:

# SECOND STIPULATION AND [PROPOSED] ORDER EXTENDING SUNWARE COMPUTER INC.'S TIME TO ANSWER COMPLAINT AND EXTENDING INITIAL CASE MANAGEMENT CONFERENCE AND ADR DEADLINES

on the parties shown below:

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Jedediah Wakefield, Esq. Fenwick & West LLP 555 California Street, 12<sup>th</sup> Floor San Francisco, CA 94104

Eric Ball, Esq. Fenwick & West LLP Silicon Valley Center 801 California Street Mountain View, CA 94041

Attorneys for Plaintiff Sun Microsystems, Inc.

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E	(BY FAX) I am readily familiar with the firm's practice of facsimile transmission; on this date the above-referenced documents were transmitted, the transmission was reported as complete and without error and the report was properly issued.
<u>X</u>	(BY MAIL) I am readily familiar with the firm's practice for the processing of mail; on this date, the above-referenced documents were placed for collection and delivery by the U.S. Postal Service following ordinary business practices.
_	(BY OVERNIGHT DELIVERY) I am readily familiar with the firm's practice for the processing of documents for delivery services; on this date, the above- referenced documents were placed for collection and delivery following ordinary business practices.
	(BY ELECTRONIC FILING) On this date I provided the documents(s) listed above electronically through the Court's electronic filing service provider pursuant to the instructions on that website.
	(BY E-MAIL) On this date, the above-referenced documents were converted to Adobe files and e-mailed to the addresses shown.
,	(BY PERSONAL SERVICE) I caused the above documents to be delivered by hand pursuant to CCP § 1011.
<u>X</u>	Federal: I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made

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2	State: I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
3	n.M
4	Executed this Hay of September, 2009 at San Rafael, California.
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6	Kristin N. de la Vega
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PROOF OF SERVICE Case No. C 09-03564