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9 Attorneys for Defendants
 10 3COM CORPORATION and HEWLETT-
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11 **UNITED STATES DISTRICT COURT**
 12 **NORTHERN DISTRICT OF CALIFORNIA**
 13 **SAN FRANCISCO DIVISION**

WIAV NETWORKS, LLC,)	CASE NO.: 3:10-CV-03448-WHA
)	
Plaintiff,)	STIPULATION AND PROPOSED
)	ORDER DISMISSING DEFENDANT
v.)	3COM CORPORATION WITHOUT
)	PREJUDICE
3COM CORPORATION, <i>et al.</i> ,)	
)	
Defendants.)	
)	

21 Plaintiff WiAV Networks, LLC (“WiAV”) and defendants 3Com Corporation (“3Com”)
 22 and Hewlett-Packard Company (“H-P”), by their respective counsel of record, hereby stipulate as
 23 follows:

24 1. In April 2010, 3Com merged with and was dissolved into H-P. In connection with
 25 the dissolution of 3Com, H-P assumed any and all potential liabilities related to this action for
 26 3Com products offered for sale and/or sold by 3Com prior to the merger, and 3Com branded
 27 products offered for sale and/or sold by H-P after the merger.

1 2. 3Com no longer exists as an entity. Based on the foregoing representations,
2 Plaintiff WiAV and defendants 3Com and H-P therefore stipulate that:

3 (a) 3Com is no longer a proper party to this action, and HP already is a party to this
4 action;

5 (b) the portions of the Complaint and Amended Complaint relating to 3Com shall be
6 deemed as pled against H-P and the Answer and First Amended Answer and Counterclaims filed
7 by 3Com shall be deemed as pled by H-P;

8 (c) WiAV will not pursue in this Case No.: 3:10-CV-03448-WHA its infringement
9 claims against the 3Com products identified in WiAV's Amended Complaint or any other 3Com
10 products, whether sold by 3Com prior to the 3Com/H-P merger or by H-P after the 3Com/H-P
11 merger; for avoidance of doubt, nothing herein precludes WiAV from pursuing in another (or
12 consolidated) action its claims for infringement related to those products in accordance with
13 subsection (e) after the Court's decision on the joinder issues;

14 (d) H-P will not pursue in this Case No.: 3:10-CV-03448-WHA any declaratory relief
15 related to the products identified in section 2.(c) herein; for avoidance of doubt, nothing herein
16 precludes H-P from pursuing in another (or consolidated) action declaratory relief related to those
17 products in accordance with subsection (f) after the Court's decision on the joinder issues;

18 (e) WiAV stipulates on behalf of itself and any alleged assignee of U.S. Patent Nos.
19 5,400,338 or 6,480,497 that it will file any future action for infringement against H-P of either of
20 these patents, or any continuations, continuations-in-part, or divisionals of these patents, directed to
21 of any and/or all of the products identified in section 2.(c) herein in the United States District Court
22 for the Northern District of California; for avoidance of doubt, WiAV only agrees to this condition
23 for the specific and unique circumstances applicable to and presented by the 3Com/H-P merger and
24 does not generally concede that actions relating to the subject matter of the instant case should be
25 limited to this District;

26 (f) H-P stipulates that it will file any future declaratory judgment action for non-
27 infringement by any of the products identified in section 2.(c) by the patents identified in section
28 2.(e) herein in the United States District Court for the Northern District of California; and,

1 (g) if WiAV, or any alleged assignee of the patents referenced in section 2.(e) herein,
2 or H-P file the actions described in sections 2.(e) or (f) herein, the filing party shall also file a
3 Notice of Related Case and Administrative Motion to Consider Whether Cases Should be Related
4 identifying each such action as being related to this action.

5 3. Plaintiff WiAV and defendants 3Com and H-P request that the Court enter an Order
6 dismissing 3Com from this action without prejudice based upon and including the foregoing
7 conditions.

8
9 Dated: September 27, 2010

ECHELON LAW GROUP, PC

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11 By: /s/ Andrew Young Choung
ANDREW YOUNG CHOUNG
12 Attorneys for Plaintiff,
WIAV NETWORKS, LLC

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14 SKADDEN, ARPS, SLATE, MEAGHER
& FLOM, LLP


15
16 By: /s/ Raoul D. Kennedy
RAOUL D. KENNEDY
17 Attorneys for Defendants
3COM CORPORATION and
18 HEWLETT PACKARD COMPANY

19 **FILER'S ATTESTATION: PURSUANT TO GENERAL ORDER NO. 45**

20 Pursuant to General Order no. 45, Section X(B), Raoul D. Kennedy hereby attests that concurrence
21 in the filing of this document has been obtained.

22 PURSUANT TO THE FOREGOING STIPULATION
IT IS SO ORDERED:

23 Dated: September 28, 2010

24
25 
26 HON. WILLIAM ALSUP
27 UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF CALIFORNIA