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12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 (OAKLAND DIVISION)

16 VIA TECHNOLOGIES, INC., a Taiwan
 17 corporation,
 18 Plaintiff,
 19 vs.
 20 SONICBLUE CLAIMS, LLC, a Delaware
 21 limited liability company; FERRY
 22 CLAIMS, LLC, a California limited
 23 liability company; and FREEFALL
 24 CLAIMS I, LLC, a California limited
 liability company
 Defendants.

Case No.09-cv-02109-PJH
 PLAINTIFF AND DEFENDANTS'
 JOINT STIPULATION AND
 [PROPOSED] ORDER AMENDING
 THE COURT'S MARCH 23, 2011
 ORDER TO REFLECT THE COURT'S
 JUNE 17, 2011 ORDER GRANTING
 DEFENDANTS' MOTION FOR
 CERTIFICATION PURSUANT TO 28
 U.S.C. § 1292(b)

1 WHEREAS, in an order filed June 17, 2011 (Docket No. 167), the Court
2 granted Defendants’ joint motion for an order certifying for interlocutory review
3 of the Court’s order dated March 23, 2011 (Docket No. 153);

4 WHEREAS, Rule 5 of the Federal Rules of Appellate Procedure provides
5 that where certification is obtained after an order has been issued, “the district
6 court may amend its order, either on its own or in response to a party’s motion, to
7 include the required permission or statement” (Fed. R. App. P. 5(a)(3));¹

8 WHEREAS, in the interest of judicial economy, Plaintiff and Defendants
9 have agreed to stipulate to the [Proposed] Order set forth below to reflect this
10 certification;

11 WHEREAS, in the interest of judicial economy, Plaintiff and Defendants
12 have agreed that the 10-day period within which to apply to the Ninth Circuit for
13 permission to appeal under 28 U.S.C. section 1292(b) will run from the date of the
14 Court’s June 17, 2011 Order, rather than the date the Court were to adopt the
15 [Proposed] Order set forth below;

16 WHEREAS, Plaintiff and Defendants have agreed that nothing in this
17 stipulation shall operate as a waiver of any kind by Plaintiff as to any arguments
18 Plaintiff may have against the suitability for interlocutory appeal of the March 23,
19 2011 Order or on the merits of any such appeal;

20
21 _____
22 ¹ See also 19 JAMES WM. MOORE ET AL., MOORE’S FEDERAL PRACTICE, ¶ 203.32
23 (Matthew Bender 2011) (“On occasion a district court may grant a request to
24 certify an order after it has issued its order on the merits in the action. In this
situation it appears that the court must issue an amended order that includes the
certification rather than merely issuing a supplemental order adding only the
certification.”).

1 Plaintiff VIA Technologies, Inc. and Defendants SonicBlue Claims, LLC,
2 Ferry Claims, LLC, and Freefall Claims I, LLC hereby agree and stipulate to the
3 below [Proposed] Order Amending the Court's March 23, 2011 Order.

4 DATED: June 22, 2011 TREPEL MCGRANE GREENFIELD LLP

6 By: /s/ Matthew R. Schultz
7 Matthew R. Schultz
8 ATTORNEYS FOR DEFENDANTS
9 FERRY CLAIMS, LLC AND
FREEFALL CLAIMS I, LLC

10 DATED: June 22, 2011 COBLENTZ PATCH DUFFY & BASS LLP

12 By: /s/ Jonathan R. Bass
13 Jonathan R. Bass
14 ATTORNEYS FOR DEFENDANT
SONIC BLUE CLAIMS, LLC

15 DATED: June 22, 2011 MORRISON & FOERSTER LLP

17 By: /s/ Douglas L. Hendricks
18 Douglas L. Hendricks
19 ATTORNEYS FOR PLAINTIFF VIA
20 TECHNOLOGIES, INC.

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[PROPOSED] ORDER

In light of the Court’s Order Granting Request For Certification Of Order For Interlocutory Review Pursuant to 28 U.S.C. § 1292(b) dated June 17, 2011 and the parties’ joint stipulation to this [Proposed] Order, the Court hereby ORDERS that the Court’s Order dated March 23, 2011 (Docket No. 153) shall be AMENDED at page 36, line 17, to include the text (including footnote) from the Court’s Order dated June 17, 2011 at page 3, lines 01 – 10.

IT IS SO ORDERED.
Dated: June 24, 2011

