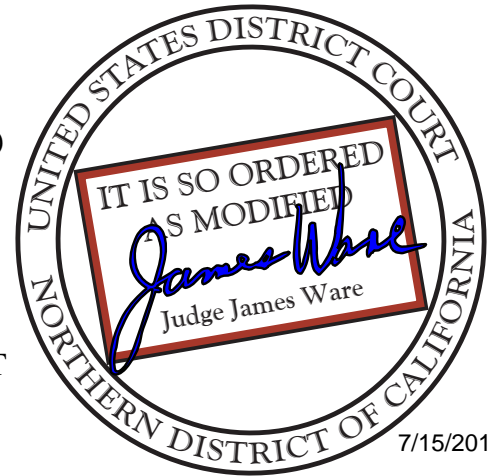


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16 **UNITED STATES DISTRICT COURT**
 17 **NORTHERN DISTRICT OF CALIFORNIA**
 18 **SAN JOSE DIVISION**

19 In re:
 20 3DFX INTERACTIVE, INC., a California
 corporation,
 21 Debtor.

Case No. 05-00427 JW
 (Related to Case No. 09-02478 JW)

**JOINT STIPULATION AND [PROPOSED]
 ORDER RE MEDIATION AND CASE
 MANAGEMENT**

Judge: Hon. James Ware

23 **CARLYLE FORTRAN TRUST,**
 24 Plaintiff,
 25 vs.
 26 **NVIDIA CORPORATION, et al.,**
 27 Defendants.
 28

STIPULATION

1
2 WHEREAS on March 11, 2009, plaintiff Carlyle Fortran Trust (“Carlyle”) filed a Motion
3 For Order Establishing Trustee’s Abandonment of the Carlyle Claims Against nVidia Defendants
4 (“Motion for Abandonment”) with the Bankruptcy Court seeking the Trustee’s abandonment of
5 certain claims alleged in Carlyle’s Complaint in Case No. 05-00427 JW;

6 WHEREAS on May 21, 2009, the Bankruptcy Court entered an Order denying Carlyle’s
7 Motion for Abandonment without prejudice;

8 WHEREAS on May 29, 2009, Carlyle filed a Notice of Appeal and Motion for Leave to
9 Appeal the Bankruptcy Court’s Order denying Carlyle’s Motion for Abandonment without
10 prejudice;

11 WHEREAS on June 17, 2010, the Court entered an Order Reversing Bankruptcy Court
12 Order; Granting Motion For Abandonment Of Claims (“Order”) in which the Court reversed the
13 Bankruptcy Court’s Order denying Carlyle’s Motion for Abandonment without prejudice;

14
15 WHEREAS on July 8, 2010, defendants NVIDIA Corporation, et al. (“NVIDIA
16 Defendants”) filed a Petition for Certification of the Order for interlocutory appeal under 28
17 U.S.C. §1292(b) (“Petition for Certification”) set for hearing before the Court on November 22,
18 2010;

19 WHEREAS Carlyle proposed to NVIDIA Defendants that the parties participate in private
20 mediation;

21 WHEREAS NVIDIA Defendants are agreeable to Carlyle’s proposal provided that any
22 litigation and discovery in Carlyle’s action (Case No. 05-00427 JW) are stayed pending
23 mediation, while the Petition for Certification filed by NVIDIA Defendants remains on calendar
24 for hearing before the Court on November 22, 2010;

25 WHEREAS Carlyle is agreeable to NVIDIA Defendants’ proposal;

26
27 NOW THEREFORE, the parties hereby stipulate and agree as follows:

28 1. The parties shall participate in mediation before a private mediator, which shall be

1 completed on or before August 30, 2010.

2 2. Any litigation and discovery in Carlyle's action (Case No. 05-00427 JW) shall be
3 stayed pending mediation.

4 3. The Petition for Certification shall remain on calendar for hearing on November
5 22, 2010. Carlyle's Opposition to the Petition for Certification shall be due on **October 22, 2010**
6 and NVIDIA Defendants' Reply shall be due on November **5**, 2010.

7 4. In the event mediation is unsuccessful, litigation and discovery in Carlyle's action
8 (Case No. 05-00427 JW) may resume. However, the NVIDIA Defendants do not hereby waive
9 the right to seek a stay of such proceedings pending resolution of the Petition for Certification and
10 Carlyle does not hereby waive the right to oppose such a request for a stay. Within 10 days after
11 mediation, the parties shall submit a joint statement reporting to the Court whether mediation was
12 successful or unsuccessful.

13 5. The parties agree that the Case Management Conference currently scheduled for
14 July 19, 2010 at 10:00 a.m. should be taken off calendar pending mediation.

15
16 **SO STIPULATED.**

17
18 Dated: July 14, 2010

DLA PIPER LLP (US)

19
20 By: /s/ Henry H. Oh

21 Henry H. Oh
22 Attorneys for Plaintiff
CARLYLE FORTRAN TRUST

23 Dated: July 14, 2010

ORRICK HERRINGTON & SUTCLIFFE LLP

24
25 By: /s/ Karen Johnson-McKewan

26 Karen Johnson-McKewan
27 Attorneys for Defendants
NVIDIA CORPORATION, ET AL.

1 **ORDER AS MODIFIED**

2 Pursuant to the stipulation, and GOOD CAUSE appearing therefore, the Court hereby
3 orders as follows:

4 1. The parties shall participate in mediation before a private mediator. The parties
5 shall complete such mediation on or before August 30, 2010.

6 2. Any litigation and discovery in Carlyle's action (Case No. 05-00427JW) shall be
7 stayed pending mediation.


8 3. The Petition for Certification filed by NVIDIA Defendants in Case No. 09-
9 02478JW shall remain on calendar for hearing on November 22, 2010. Carlyle's Opposition to
10 the Petition for Certification is due on **October 22, 2010** and NVIDIA Defendants' Reply is due
11 on **November 5, 2010**.

12 4. The Case Management Conference currently scheduled in *Carlyle Fortran Trust v.*
13 *NVIDIA Corp.*, Case No. 05-00427 and in *In re 3dfx Interactive, Inc.*, Case No. 09-02478, for
14 July 19, 2010 at 10:00 a.m. is hereby vacated.

15 5. In the event the mediation is unsuccessful, litigation and discovery in Carlyle's
16 action (Case No. 05-00427JW) may resume, though the NVIDIA Defendants may seek an order
17 from this Court staying proceedings pending resolution of the Petition for Certification and
18 Carlyle may oppose such a request for a stay. Within 10 days after mediation, the parties shall
19 submit a joint case management statement reporting to the Court whether mediation was
20 successful or unsuccessful.

21
22
23
24 **IT IS SO ORDERED**

25
26 Dated: July 15, 2010

27 
United States District Court Judge