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 13 HEWLETT-PACKARD COMPANY

14 UNITED STATES DISTRICT COURT
 15 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 16 SAN JOSE DIVISION

17 CARL K. RICH, et al.,
 18 Plaintiffs,
 19 v.
 20 HEWLETT-PACKARD COMPANY, et al.,
 21 Defendants.

CASE NO. C 06 03361-JF (HRL)

**JOINT STIPULATION REQUESTING
 FURTHER MODIFICATION OF HEARING
 AND BRIEFING SCHEDULE FOR
 PLAINTIFFS' MOTION FOR CLASS
 CERTIFICATION; ~~PROPOSED~~ ORDER
 GRANTING STIPULATION; AND
 DECLARATION OF COUNSEL**

22 Counsel for Plaintiffs Carl Rich and David Duran ("Plaintiffs") and counsel for Defendant
 23 Hewlett-Packard Company ("HP"), in support of their Stipulation Requesting Further Modification of
 24 Hearing and Briefing Schedule for Plaintiffs' Motion for Class Certification, state as follows:

- 25 1. At the Case Management Conference held on November 30, 2007, the Court set
 26 hearing on Plaintiffs' motion for class certification for May 8, 2009. Upon the parties' stipulated
 27 request, the Court modified this schedule and continued the hearing on Plaintiffs' motion for class
 28 certification to September 19, 2009, and set the following deadlines for briefing on the motion:
 April 23, 2009, for Plaintiffs' moving papers; July 22, 2009, for Defendant's opposition; and

1 August 26, 2009, for Plaintiffs' reply papers. *See* Order Granting Stipulation Requesting
2 Modification of Hearing and Briefing Schedule Re: Motion for Class Certification; Declaration of
3 Counsel (Docket No. 57). Upon further stipulation of the parties, the Court modified this schedule
4 and continued the hearing on Plaintiffs' motion for class certification to November 20, 2009, and set
5 the following deadlines for briefing on the motion: June 23, 2009, for Plaintiffs' moving papers;
6 September 22, 2009, for Defendant's opposition; and October 26, 2009, for Plaintiffs' reply papers.
7 *See* Order Granting Stipulation Requesting Modification of Hearing and Briefing Schedule Re:
8 Motion for Class Certification; Declaration of Counsel (Docket No. 60).

9 2. Due to the parties' ongoing discussions and attempt to mediate their differences, they
10 have negotiated another extension of approximately forty-five days for all dates associated with
11 Plaintiffs' motion for class certification. The dates to which the parties have agreed, subject to the
12 Court's approval, are as follows: (a) November 5, 2009, for Hewlett-Packard to file its opposition to
13 Plaintiffs' motion for class certification and its expert report(s); (b) December 9, 2009, for Plaintiffs
14 to file their reply in support of their motion for class certification; and (c) January 8, 2010, for the
15 hearing on Plaintiffs' motion for class certification.

16 3. In addition, the Court previously ordered that, on account of the complexity of the
17 issues to be decided on class certification, the page limit requirements contained in Civil Local
18 Rule 7-3(a) be increased to 35 pages for Hewlett-Packard's opposition. *See* Order Granting
19 Stipulation Requesting Modification of Hearing and Briefing Schedule Re: Motion for Class
20 Certification (Docket No. 57).

21 4. Pursuant to Civil Local Rule 6-2, a date of an event or deadline already fixed by Court
22 order may be enlarged or changed if the parties so stipulate; the stipulation is accompanied by a
23 declaration addressing the reasons for the requested change, previous time modifications, and the
24 effect that the requested time modification would have on the schedule set for the case; and the
25 parties obtain an order from the Court approving the requested enlargement of time.

26 5. A declaration of counsel providing the information required by Civil Local Rule 6-2
27 follows this Stipulation.

1 6. Therefore, the parties through their counsel respectfully request that the Court enter an
2 order vacating the current hearing date for Plaintiffs' motion for class certification, and setting the
3 following new schedule: (a) HP's opposition papers (and expert reports) to be filed and served no
4 later than November 5, 2009; (b) Plaintiffs' reply papers are to be filed and served no later than
5 December 9, 2009; and (c) the hearing on Plaintiffs' motion for class certification is set for January 8,
6 2010, or such alternative date as the Court may select.

7 7. HP reserves the right to file a motion for summary judgment on the claims of any
8 individual named plaintiff at any time prior to the last day to file dispositive motions, and to notice
9 the hearing of such a motion on or before the hearing date set for Plaintiffs' motion for class
10 certification.

11
12 **IT IS SO STIPULATED.**

13 DATED: August 12, 2009

COTCHETT, PITRE & MCCARTHY

14
15 By: _____ /s/ Justin T. Berger*

16 Attorneys for Plaintiffs CARL RICH and DAVID
17 DURAN

18 DATED: August 12, 2009

GIBSON, DUNN & CRUTCHER LLP
19 PETER SULLIVAN
20 SAMUEL G. LIVERSIDGE
21 CHRISTOPHER CHORBA

22 By: _____ /s/ Christopher Chorba*

23 Attorneys for Defendant HEWLETT-PACKARD
24 COMPANY

25 *I hereby attest that I have on file all holograph
26 signatures for any signatures indicated by a
27 "conformed" signature (/s/) within this efiled document.
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1 **DECLARATION OF CHRISTOPHER CHORBA IN SUPPORT OF STIPULATION**

2 1. I, Christopher Chorba, am an attorney admitted to practice before this Court and all
3 courts of the State of California. I am an associate attorney in the law firm of Gibson, Dunn &
4 Crutcher LLP, attorneys of record for Defendant Hewlett-Packard Company (“HP”). I make this
5 declaration in support of the Joint Stipulation and [Proposed] Order Requesting Further Modification
6 of Hearing and Briefing Schedule for Plaintiffs’ Motion for Class Certification. I have personal
7 knowledge of the facts stated herein, and, if called as a witness, I could and would testify
8 competently to those facts.

9 2. At the Case Management Conference held on November 30, 2007, the Court set
10 hearing on Plaintiffs’ motion for class certification for May 8, 2009. Upon stipulation of the parties
11 filed January 15, 2009, the Court moved the hearing on Plaintiffs’ motion for class certification to
12 September 19, 2009, and set the following deadlines for briefing on the motion: April 23, 2009, for
13 Plaintiffs’ moving papers; July 22, 2009, for HP’s opposition; and August 26, 2009, for Plaintiffs’
14 reply papers. *See* Order Granting Stipulation Requesting Modification of Hearing and Briefing
15 Schedule Re: Motion for Class Certification (Docket No. 57). Upon further stipulation of the parties
16 filed April 23, 2009, the Court moved the hearing on Plaintiffs’ motion for class certification to
17 November 20, 2009, and set the following deadlines for briefing on the motion: June 23, 2009, for
18 Plaintiffs’ moving papers; September 22, 2009, for HP’s opposition; and October 26, 2009, for
19 Plaintiffs’ reply papers. *See* Order Granting Stipulation Requesting Further Modification of Hearing
20 and Briefing Schedule Re: Motion for Class Certification (Docket No. 60).

21 3. The parties are involved in ongoing discussions and attempt to mediate their
22 differences, and it is the desire of both parties to continue focusing on these efforts and bring them to
23 a resolution before briefing Plaintiffs’ motion for class certification, which may be ultimately
24 unnecessary if the parties are able to resolve their dispute. Accordingly, the parties have agreed to an
25 extension of approximately forty-five days for all dates associated with Plaintiffs’ motion for class
26 certification. The dates to which the parties have agreed, subject to the Court’s approval, are as
27 follows: (a) HP’s opposition papers (and expert reports) to be filed and served no later than
28 November 5, 2009; (b) Plaintiffs’ reply papers are to be filed and served no later than December 9,

1 2009; and (c) the hearing on Plaintiffs' motion for class certification is set for January 8, 2010, or
2 such alternative date as the Court may select.

3 4. The original complaint was filed on May 22, 2006. There have been several
4 continuances since then, in addition to the extensions referenced in paragraph 2. By stipulation filed
5 in June 2006, HP's deadline for filing a responsive pleading was extended. On August 31, 2006, the
6 Court approved the parties' stipulated request to continue the initial case management conference.
7 On October 10, 2006, the Court approved the parties' stipulated request to further continue the initial
8 case management conference, and to extend deadlines to complete the ADR process and for HP to
9 respond to Plaintiffs' First Amended Complaint. The case management conference was subsequently
10 further continued to March 9, 2007. After dismissal of the First Amended Complaint, with leave to
11 amend, Plaintiffs filed a Second Amended Complaint, and stipulated to an extension of time for HP
12 to respond thereto.

13 5. As discussed above in paragraph 2, the parties have sought and received two prior
14 extensions to the deadlines for Plaintiffs' motion for class certification.

15 6. The Court has not set any dates other than that for hearing on Plaintiffs' motion for
16 class certification and the Case Management Conference scheduled for September 18, 2009, at 10:30
17 a.m. Therefore, granting the time modification requested in the parties' stipulation will not require
18 extensions to any other deadlines.

19 I declare under penalty of perjury under the laws of the United States that the foregoing is true
20 and correct.

21 Executed at Los Angeles, California, on August 12, 2009.

22
23 By: _____ /s/ Christopher Chorba*

24 *I hereby attest that I have on file all holograph
25 signatures for any signatures indicated by a
26 "conformed" signature (/s/) within this efiled document.
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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CARL K. RICH, et al.,

Plaintiffs,

v.

HEWLETT-PACKARD COMPANY, et al.,

Defendants.

CASE NO. C 06 03361-JF (HRL)

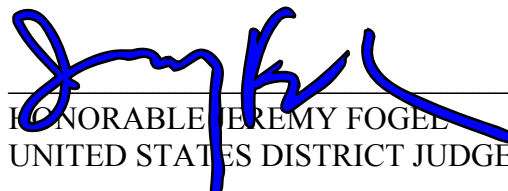
**~~PROPOSED~~ ORDER GRANTING JOINT
STIPULATION REQUESTING FURTHER
MODIFICATION OF HEARING AND
BRIEFING SCHEDULE FOR PLAINTIFFS'
MOTION FOR CLASS CERTIFICATION**

The Court having reviewed the parties' stipulation to further modify the briefing and hearing schedule for Plaintiffs' motion for class certification and the accompanying declaration of counsel, and having found good cause shown, IT IS ORDERED as follows:

The Court VACATES the current hearing date of November 20, 2009, for Plaintiffs' motion for class certification. The Court sets the following new schedule with respect to Plaintiffs' motion: Defendant's opposition papers and expert reports are to be filed and served no later than November 5, 2009; Plaintiffs' reply papers are to be filed and served no later than December 9, 2009; and the hearing on Plaintiffs' motion for class certification is set for January 8, 2010.

IT IS SO ORDERED.

Date: 8/13/2009



HONORABLE JEREMY FOGEL
UNITED STATES DISTRICT JUDGE

1 **CERTIFICATE OF SERVICE**

2 I, Christopher Chorba, declare as follows:

3 I am employed in the County of Los Angeles, State of California; I am over the age of
4 eighteen years and am not a party to this action; my business address is 333 South Grand Avenue,
5 Los Angeles, CA 90071 in said County and State.

6 I hereby certify that on August 12, 2009, the following documents were electronically
7 transmitted to the Clerk of the Court using the CM/ECF System:

8 **JOINT STIPULATION REQUESTING FURTHER MODIFICATION OF**
9 **HEARING AND BRIEFING SCHEDULE FOR PLAINTIFFS’ MOTION FOR**
10 **CLASS CERTIFICATION; [PROPOSED] ORDER GRANTING STIPULATION;**
11 **AND DECLARATION OF COUNSEL**

12 I further certify that copies of the foregoing documents were transmitted on August 12, 2009,
13 via e-mail to each of the persons named on the attached Service List. I caused each such document to
14 be transmitted by PDF Format, to the parties and e-mail addresses indicated on the attached Service
15 List.

16 I declare under penalty of perjury that the foregoing is true and correct.

17 DATED: August 12, 2009

GIBSON, DUNN & CRUTCHER LLP

18 By: _____ /s/ Christopher Chorba*

19 Attorneys for Defendant HEWLETT-PACKARD
20 COMPANY

21 *I hereby attest that I have on file all holograph
22 signatures for any signatures indicated by a
23 “conformed” signature (/s/) within this efiled document.
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