

1 PETER SULLIVAN, SBN 101428  
 2 [PSullivan@gibsondunn.com](mailto:PSullivan@gibsondunn.com)  
 3 SAMUEL G. LIVERSIDGE, SBN 180578  
 4 [SLiversidge@gibsondunn.com](mailto:SLiversidge@gibsondunn.com)  
 5 CHRISTOPHER CHORBA, SBN 216692  
 6 [CChorba@gibsondunn.com](mailto:CChorba@gibsondunn.com)  
 7 GIBSON, DUNN & CRUTCHER LLP  
 8 333 South Grand Avenue  
 9 Los Angeles, California 90071-3197  
 10 Telephone: (213) 229-7000  
 11 Facsimile: (213) 229-7520

\*\*E-Filed 10/27/2009\*\*

12 Attorneys for Defendant  
 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 AND RESCHEDULING  
 OF CASE MANAGEMENT CONFERENCE;  
 DECLARATION OF COUNSEL; AND  
 [PROPOSED] ORDER GRANTING  
 STIPULATION**

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

26 1. At the Case Management Conference held on November 30, 2007, the Court set  
 27 hearing on Plaintiffs' motion for class certification for May 8, 2009. Upon the parties' stipulated  
 28 requests, the Court ordered further modifications to this schedule. (Docket Nos. 57, 60, 75.)

1 Pursuant to the current schedule, Plaintiffs filed their motion for class certification and expert report  
2 on June 23, 2009, Defendant's opposition papers and expert reports are due November 5, 2009,  
3 Plaintiffs' reply papers are due December 9, 2009, and the hearing on the motion is set for January 8,  
4 2010. By Order dated September 14, 2009, upon further stipulation of the parties, the Court  
5 rescheduled the Case Management Conference from September 18, 2009, at 10:30 a.m., to January 8,  
6 2010, so that this conference would immediately follow the hearing on Plaintiffs' motion for class  
7 certification. *See* Order Granting Joint Stipulation Requesting Rescheduling of Case Management  
8 Conference; Declaration of Counsel (Docket No. 77).

9 2. Due to the parties' ongoing discussions and attempt to mediate their differences and  
10 the additional time required by Plaintiffs' counsel to produce documents related to their expert report,  
11 the parties request another extension of approximately thirty days for all dates associated with  
12 Plaintiffs' motion for class certification. The dates to which the parties have agreed, subject to the  
13 Court's approval, are as follows: (a) December 7, 2009, for HP to file its opposition to Plaintiffs'  
14 motion for class certification and its expert report(s); (b) January 11, 2010, for Plaintiffs to file their  
15 reply papers; and (c) February 5, 2010, at 9:00 a.m., for the hearing on Plaintiffs' motion and the  
16 Case Management Conference, or such alternative date and time as the Court may select.

17 3. In addition, the Court previously ordered that, on account of the complexity of the  
18 issues to be decided on class certification, the page limit requirements contained in Civil Local  
19 Rule 7-3(a) be increased to 35 pages for HP's opposition. *See* Order Granting Stipulation Requesting  
20 Modification of Hearing and Briefing Schedule Re: Motion for Class 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.       At the present time there are no other pending motions before the court, although HP  
2 reserves the right to file a motion for summary judgment on the claims of any individually named  
3 plaintiff at any time prior to the last day to file dispositive motions, and to notice the hearing of such  
4 motion on or before the date set for hearing Plaintiffs' motion for class certification.

5           7.       Therefore, the parties through their counsel respectfully request that the Court enter an  
6 order vacating the current hearing date for Plaintiffs' motion for class certification, and setting the  
7 following new schedule: (a) HP's opposition papers (and expert reports) are to be filed and served no  
8 later than December 7, 2009; (b) Plaintiffs' reply papers are to be filed and served no later than  
9 January 11, 2010; and (c) the hearing on Plaintiffs' motion for class certification is set for February 5,  
10 2010, or such alternative date as the Court may select. The parties further respectfully request that  
11 the Case Management Conference be rescheduled to follow the hearing on Plaintiffs' motion for class  
12 certification on February 5, 2010, or such alternative date as the Court may select.

13  
14 **IT IS SO STIPULATED.**

15 DATED: October 13, 2009

COTCHETT, PITRE & MCCARTHY

16  
17 By: \_\_\_\_\_ /s/ Justin T. Berger\*

18 Attorneys for Plaintiffs CARL RICH and DAVID  
19 DURAN

20 DATED: October 13, 2009

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

21  
22  
23 By: \_\_\_\_\_ /s/ Christopher Chorba\*

24 Attorneys for Defendant HEWLETT-PACKARD  
25 COMPANY

26 \*I hereby attest that I have on file all holograph  
27 signatures for any signatures indicated by a  
28 "conformed" signature (/s/) within this efiled document.



1 Stipulation Requesting Further Modification of Hearing and Briefing Schedule for Plaintiffs' Motion  
2 for Class Certification; Declaration of Counsel (Docket No. 75).

3 (d) In addition, by Order dated September 14, 2009, upon further stipulation of the parties  
4 filed September 10, 2009, the Court rescheduled the Case Management Conference from September  
5 18, 2009, at 10:30 a.m., to January 8, 2010, immediately following the hearing on Plaintiffs' motion  
6 for class certification. *See* Order Granting Joint Stipulation Requesting Rescheduling of Case  
7 Management Conference; Declaration of Counsel (Docket No. 77).

8 3. The parties remain involved in ongoing discussions and an attempt to mediate their  
9 differences, and it is the desire of both parties to continue focusing on these efforts and bring them to  
10 a resolution before briefing Plaintiffs' motion for class certification, which may be ultimately  
11 unnecessary if the parties are able to resolve their dispute. In addition, Plaintiffs' counsel has  
12 required additional time to produce documents related to their expert report. HP served its document  
13 requests related to Plaintiffs' expert report on July 8, 2009, and agreed to a thirty-day extension for  
14 Plaintiffs' written responses. Plaintiffs served their written responses on September 21, 2009, and  
15 they have not yet produced documents in response to these requests.

16 4. Accordingly, the parties have agreed to an extension of approximately thirty days for  
17 all dates associated with Plaintiffs' motion for class certification. The dates to which the parties have  
18 agreed, subject to the Court's approval, are as follows: (a) HP's opposition papers (and expert  
19 reports) are to be filed and served no later than December 7, 2009; (b) Plaintiffs' reply papers are to  
20 be filed and served no later than January 11, 2010; and (c) the hearing on Plaintiffs' motion for class  
21 certification is set for February 5, 2010, or such alternative date as the Court may select. The parties  
22 have further agreed and respectfully submit that it would be more efficient to have the Case  
23 Management Conference follow the hearing on Plaintiffs' motion for class certification on February  
24 5, 2010, or such alternative date as the Court may select.

25 5. The original complaint was filed on May 22, 2006. There have been several  
26 continuances since then, in addition to the extensions referenced in paragraph 2. By stipulation filed  
27 in June 2006, HP's deadline for filing a responsive pleading was extended. On August 31, 2006, the  
28

1 Court approved the parties' stipulated request to continue the initial case management conference.  
2 On October 10, 2006, the Court approved the parties' stipulated request to further continue the initial  
3 case management conference, and to extend deadlines to complete the ADR process and for HP to  
4 respond to Plaintiffs' First Amended Complaint. The case management conference was subsequently  
5 further continued to March 9, 2007. After dismissal of the First Amended Complaint, with leave to  
6 amend, Plaintiffs filed a Second Amended Complaint, and stipulated to an extension of time for HP  
7 to respond thereto.

8 6. As discussed above in paragraph 2, the parties have sought and received three prior  
9 extensions to the deadlines for Plaintiffs' motion for class certification.

10 7. The Court has not set any dates other than that for hearing on Plaintiffs' motion for  
11 class certification and the Case Management Conference, both currently scheduled for January 8,  
12 2010. Therefore, granting the time modification and rescheduling as requested in the parties'  
13 stipulation will not require extensions to any other deadlines.

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

16 Executed at Los Angeles, California, on October 13, 2009.

17  
18 By: \_\_\_\_\_ /s/ Christopher Chorba\*

19 \*I hereby attest that I have on file all holograph  
20 signatures for any signatures indicated by a  
21 "conformed" signature (/s/) within this efiled document.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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  
AND RESCHEDULING OF CASE  
MANAGEMENT CONFERENCE

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

The Court VACATES the current hearing date of January 8, 2010, 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 December 7, 2009; Plaintiffs' reply papers are to be filed and served no later than January 11, 2010; and the hearing on Plaintiffs' motion for class certification is set for February 5, 2010, at 9:00 a.m.

1 The Court further reschedules the Case Management Conference from January 8, 2010, to  
2 February 5, 2010, immediately following the hearing on Plaintiffs' motion for class certification.  
3

4 **IT IS SO ORDERED.**

5 Date: 10/22/2009

6   
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
HONORABLE JEROME FOGEL  
UNITED STATES DISTRICT JUDGE



1 **CERTIFICATE OF SERVICE**

2 I, Dhananjay S. Manthripragada, 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 October 13, 2009, the following documents were electronically  
7 transmitted to the Clerk of the Court using the CM/ECF System: **JOINT STIPULATION**  
8 **REQUESTING FURTHER MODIFICATION OF HEARING AND BRIEFING SCHEDULE**  
9 **FOR PLAINTIFFS’ MOTION FOR CLASS CERTIFICATION AND RESCHEDULING OF**  
10 **CASE MANAGEMENT CONFERENCE; DECLARATION OF COUNSEL; AND**  
11 **[PROPOSED] ORDER GRANTING STIPULATION.** I further certify that copies of the  
12 foregoing documents were transmitted on October 13, 2009, via e-mail to each of the persons named  
13 on the attached Service List. I caused each such document to be transmitted by PDF Format, to the  
14 parties and e-mail addresses indicated on the attached Service List.

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

16 DATED: October 13, 2009

GIBSON, DUNN & CRUTCHER LLP

17  
18 By:           /s/ Dhananjay S. Manthripragada\*

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.  
24  
25  
26  
27  
28

**Service List**

**Counsel for Plaintiffs**

Brian S. Kabateck  
Alfredo Torrijos  
Claudia E. Candelas  
Kabateck Brown Kellner, LLP  
644 South Figueroa Street  
Los Angeles, CA 90017  
Tel: (213) 217-5000  
Fax: (213) 217-5010  
[bsk@kbklawyers.com](mailto:bsk@kbklawyers.com)  
[at@kbklawyers.com](mailto:at@kbklawyers.com)  
[cc@kbklawyers.com](mailto:cc@kbklawyers.com)

Niall P. McCarthy  
Laura E. Schlichtmann  
Justin T. Berger  
Cotchett, Pitre & McCarthy  
San Francisco Airport Office Center  
840 Malcolm Road, Suite 200  
Burlingame, CA 94010  
Tel: (650) 697-6000  
Fax: (650) 692-3606  
[nmccarthy@cpmlegal.com](mailto:nmccarthy@cpmlegal.com)  
[lschlichtmann@cpmlegal.com](mailto:lschlichtmann@cpmlegal.com)  
[jberger@cpmlegal.com](mailto:jberger@cpmlegal.com)

Stephen M. Garcia  
David Medby  
The Garcia Law Firm  
One World Trade Center, Suite 1950  
Long Beach, CA 90831  
Tel: (562) 216-5270  
Fax: (562) 216-5271  
[sgarcia@lawgarcia.com](mailto:sgarcia@lawgarcia.com)  
[dmedby@lawgarcia.com](mailto:dmedby@lawgarcia.com)

Patrick McNicholas  
McNicholas & McNicholas LLP  
10866 Wilshire Blvd., Suite 1400  
Los Angeles, CA 90024  
Tel: (310) 474-1582  
Fax: (310) 475-7871  
[pmc@mcnicholaslaw.com](mailto:pmc@mcnicholaslaw.com)  
[cjs@mcnicholaslaw.com](mailto:cjs@mcnicholaslaw.com)

Bruce L. Simon  
Esther L. Klisura  
Pearson, Simon, Warshaw & Penny LLP  
44 Montgomery Street, Suite 1430  
San Francisco, CA 94104  
Tel: (415) 433-9000  
Fax: (415) 433-9008  
[bsimon@pswplaw.com](mailto:bsimon@pswplaw.com)  
[eklisura@pswplaw.com](mailto:eklisura@pswplaw.com)

100743142\_2.DOC