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SHUTTLE, INC. and SHUTTLE COMPUTER
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LENOVO (SINGAPORE) PTE. LTD.,

Plaintiff,

vs.

SHUTTLE, INC. and SHUTTLE COMPUTER
GROUP, INC.,

Defendants.

Case No. 5:08-CV-3454-JF-PSG

**JOINT STIPULATION AND [PROPOSED]
ORDER REGARDING STAY PENDING
SETTLEMENT DISCUSSIONS**

Judge: Hon. Jeremy Fogel

1 Plaintiff Lenovo (Singapore) Pte. Ltd. (“Plaintiff”) and Defendants Shuttle Inc. and Shuttle
2 Computer Group Inc. (together “Defendants”) respectfully request that the Court enter an order
3 staying this case until March 28, 2011 pending the outcome of settlement discussions. In support of
4 this Stipulation, the parties state as follows:

5 **I. Reasons for Requested Stay**

6 1. On or about November 22, 2010, representatives for both parties met in Taiwan to
7 discuss a possible settlement of the pending litigation. During those discussions, the parties reached
8 a preliminary agreement to a four week standstill in the lawsuit while settlement discussions
9 continue. At that time, the parties also agreed and requested that the Court stay all case deadlines,
10 both Court imposed and discovery related, during this four week period. In the event that a
11 settlement could not be reached, the parties requested that the Court extend the case deadlines set
12 forth in the Joint Stipulated Case Management Order entered by the Court on September 2, 2010 by
13 four weeks. The Court signed an Order granting the stay on November 30, 2010.

14 2. However, due to the holiday season, the parties were unable to complete settlement
15 discussions during the four week period. Moreover, given the holiday season, the four week
16 adjustment of the case schedule did not provide ample time to satisfy approaching deadlines. For
17 example, pursuant to the Court’s November 30, 2010 Order, the deadline for claim construction
18 discovery was shifted from December 23, 2010 to January 20, 2011. Even under the adjusted
19 timeline, the parties’ ability to conduct claim construction discovery would be hindered given the
20 logistics of scheduling and conducting depositions over the holidays, in addition to the parties’
21 continuing efforts to collect responsive documents. Therefore, on December 21, 2010 the parties
22 filed a Joint Stipulation and [Proposed] Order to Modify Case Management Order Pursuant to L.R.
23 6-2 requesting an additional four week extension of all remaining deadlines established by
24 September 2, 2010 Order and modified by the November 30, 2010 Order.

25 3. After requesting an extension on December 21, 2010, the parties reached an
26 agreement regarding a standstill in the lawsuit through February 24, 2011 while settlement
27 discussions continued. The parties agreed and requested that the Court stay all case deadlines, both
28 Court imposed and discovery related, until February 24, 2011. The parties requested the standstill

1 through February 24, 2011 in order to accommodate the upcoming holidays, including the Chinese
2 New Year. On January 5, 2011, the Court granted the parties Joint Stipulation and [Proposed] Order
3 Regarding Stay Pending Settlement Discussions staying all case deadlines, both Court imposed and
4 discovery related, until February 24, 2011.

5 4. During this standstill, the parties have made significant progress in reaching a
6 settlement in this litigation. However, while significant strides have been made, the parties have
7 been unable to come to a complete settlement agreement at this time. The parties wish to continue
8 settlement discussions in hopes of reaching an agreement in the very near future. To that end, the
9 parties hereby request an additional 30 days that the parties believe will be sufficient to finalize the
10 written agreement. In the event that the parties cannot reach a settlement, the parties request that the
11 Court extend the current case deadlines set forth in the Joint Stipulated Case Management Order
12 entered by the Court on September 2, 2010, modified by the Court's November 30, 2010 Order and
13 extended pursuant to the Court's January 5, 2011 Order as set forth in section III below

14 **II. Previous Time Modifications**

15 4. On July 17, 2008, Plaintiff filed the Complaint (*see* Dkt. No. 1). On the same day,
16 the Court set a Case Management Conference ("CMC") for Oct. 27, 2008 (*see* Dkt. No. 3).

17 5. On Aug. 18, 2008, this case was reassigned to Judge Fogel (*see* Dkt. No. 11). The
18 CMC scheduled for Oct. 27, 2008 was vacated.

19 6. On Sept. 26, 2008, the parties filed a Stipulation and Proposed Order enlarging
20 Defendants' time to reply to Plaintiff's Complaint to Dec. 1, 2008 (*see* Dkt. No. 17). Judge Fogel
21 granted this request on Oct. 6, 2008 (*see* Dkt. No. 20).

22 7. On Sep. 30, 2008, before the extension was granted by Judge Fogel, the Court noticed
23 the CMC for Oct. 31, 2008 (*see* Dkt. No. 19).

24 8. On Oct. 21, 2008, the parties filed a Stipulation and Proposed Order to Extend CMC
25 and ADR Deadlines (*see* Dkt. No. 22). Judge Fogel granted this request on Oct. 22, 2008, setting the
26 CMC for Dec. 5, 2008 (*see* Dkt. No. 23).

1 9. On Nov. 14, 2008, the parties filed a Second Stipulation and Proposed Order to
2 Extend the CMC and ADR Deadlines (*see* Dkt. No. 28). Judge Fogel granted this request on Nov.
3 17, 2008, setting the CMC for Dec. 19, 2008 (*see* Dkt. No. 30).

4 10. On Dec. 19, 2008, the Court set a further CMC for Mar. 20, 2009 (*see* Dkt. No. 38).
5 On Mar. 13, 2009, the Court continued the CMC to Mar. 23, 2009 (*see* Dkt. No. 41).

6 11. On Mar. 20, 2009, the parties filed a Stipulation to Stay Pending Reexamination of
7 the Patents-In-Suit (*see* Dkt. No. 42). Judge Fogel granted this request on Mar. 23, 2009 CMC,
8 setting a Status Conference for Sep. 25, 2009 (*see* Dkt. No. 44). The Order granting the Stay was
9 filed on Mar. 24, 2009 (*see* Dkt. No. 43).

10 12. On Sep. 25, 2009, Judge Fogel continued the Stay, setting a Status Conference for
11 Mar. 26, 2010 (*see* Dkt. No. 45).

12 13. On Mar. 26, 2010, Judge Fogel set a Status Conference for May 7, 2010 (*see* Dkt. No.
13 48).

14 14. On Apr. 30, 2010, the parties filed a Joint Case Management Statement setting forth a
15 proposed case schedule (*see* Dkt. No. 52).

16 15. On May 7, 2010, Judge Fogel lifted the Stay and adopted the proposed case schedule
17 filed by the parties on Apr. 30, 2010 (*see* Dkt. No. 53).

18 16. On Jun. 24, 2010, Plaintiff Lenovo, filed an Unopposed Motion for Extension of
19 Time requesting that the deadlines adopted by the Court in its May 7, 2010 Order be extended by
20 seven days (*see* Dkt. No. 56). Judge Fogel granted this request on July 27, 2010, setting the Claim
21 Construction Hearing for Feb. 22, 2010 (*see* Dkt. No. 58).

22 17. On Aug. 12, 2010, Defendant Shuttle, filed a Motion to Enlarge Time and To Modify
23 the Case Schedule (*see* Dkt. No. 59). Judge Fogel granted this request on Aug. 18, 2010, and
24 ordered the parties to submit a Proposed Stipulated Case Management Order with a revised case
25 schedule by Aug. 31, 2010 (*see* Dkt. No. 64).

26 18. On Aug. 31, 2010, the parties filed a Joint Proposed Stipulated Case Management
27 Order (*see* Dkt. No. 65), which Judge Fogel granted on Sep. 2, 2010 (*see* Dkt. No. 67).

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1 19. On Nov. 19, 2010, the parties filed a Joint Stipulation and Proposed Order to
2 Continue the Hearing date on Defendant Shuttle's Motion to Strike Plaintiff Lenovo's Infringement
3 Contentions (*see* Dkt. No. 79). Magistrate Judge Patricia Trumbull, granted this request, setting the
4 hearing Joint Stipulation for Dec. 14, 2010 (*see* Dkt. No. 80).

5 20. On Nov. 23, 2010, the parties filed a Joint Stipulation and [Proposed] Order to
6 Enlarge Time to File the parties' Patent L.R. 4-3 Joint Claim Construction and Prehearing Statement
7 (Civil L.R. 6-2) (*see* Dkt. No. 81). On Nov. 23, 2010, the Court granted the parties' request (*see*
8 Dkt. No. 82).

9 21. On Nov. 24, 2010, the parties filed a Joint Stipulation and [Proposed] Order
10 Regarding Stay Pending Settlement Discussions (*see* Dkt. No. 83). On Nov. 30, 2010, the Court
11 entered an Order granting the stay (*see* Dkt. No. 84).

12 22. On December 21, 2010, the parties filed a Joint Stipulation and [Proposed] Order to
13 Modify Case Management Order Pursuant to L.R. 6-2 (*see* Dkt. No. 85).

14 23. On January 3, 2011, the parties filed a Joint Stipulation and [Proposed] Order
15 Regarding Stay Pending Settlement Discussions (*see* Dkt. No. 86). On Jan. 5, 2011, the Court
16 entered an Order granting the stay and extending all case deadlines (*see* Dkt. No. 87).

17 **III. Effect of Requested Stay**

18 24. The parties request the Court stay the case and all case deadlines, Court imposed and
19 discovery related, until March 28, 2011 pending settlement discussions.

20 25. In the event that a settlement cannot be reached, the parties request that the Court
21 extend the current case deadlines set forth in the September 2, 2010 Joint Stipulated Case
22 Management Order and modified by the Court's November 30, 2010 Order and extended pursuant to
23 the Court's January 5, 2011 Order extending all case deadlines as set forth below:

24

Event	Schedule Established by September 2 Order	4-Week Extension Granted Pursuant to Nov. 30 Order	Extension Granted Pursuant to Jan. 5 Order	Additional Extension Requested by this Stipulation
Parties file Joint Claim	November 23, 2010	December 21, 2010	March 28, 2011	April 27, 2011

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1	Construction and Prehearing Statement. Patent L.R. 4-3				
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4	Amended pleadings deadline	December 7, 2010	January 4, 2011	April 11, 2011	May 11, 2011
5					
6	Deadline for completing discovery on issues relating to claim construction for the patents-in- suit. Patent L.R. 4-4	December 23, 2010	January 20, 2011	April 29, 2011	May 31, 2011
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12	Lenovo files Opening Claim Construction Brief. Patent L.R. 4- 5(a)	January 7, 2011	February 4, 2011	May 13, 2011	June 13, 2011
13					
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15					
16	Shuttle files Opposition Claim Construction Brief. Patent L.R. 4- 5(b)	January 21, 2011	February 18, 2010	May 27, 2011	June 27, 2011
17					
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21	Lenovo files Reply Claim Construction Brief. Patent L.R. 4- 5(c)	January 28, 2011	February 25, 2011	June 3, 2011	July 5, 2011
22					
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25	Claim Construction Hearing	March 4, 2011	April 1, 2011	To be set by Court on a date convenient to the Court on or after July 1, 2011	To be set by Court on a date convenient to the Court on or after
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1				August 1, 2011
2	Parties relying upon advice of counsel to support any claim or defense must produce and serve all supporting documents. Patent L.R. 3-7.	50 days after issuance of Claim Construction Order	50 days after issuance of Claim Construction Order	50 days after issuance of Claim Construction Order
3				50 days after issuance of Claim Construction Order
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8
9 FOR THE ABOVE REASONS, the parties respectfully request that the Court enter an order
10 staying this case and all deadlines until March 28, 2011.

11 SO STIPULATED:

12 Respectfully submitted,

13 Dated: February 25, 2011

AKIN GUMP STRAUSS HAUER & FELD LLP

16 By: /s/ Fred I. Williams

FRED I. WILLIAMS

17 Attorneys for Plaintiff
18 LENOVO (SINGAPORE) PTE. LTD.

23 Dated: February 25, 2011

SIDLEY AUSTIN LLP

25 By: /s/ Robert B. Morrill

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ROBERT B. MORRILL¹

Attorneys for Defendants SHUTTLE, INC. and
SHUTTLE COMPUTER GROUP, INC.

¹ Pursuant to General Order 45(X), the filer of this document hereby attests that concurrence in the filing of the document has been obtained from Robert B. Morrill.

[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS HEREBY ORDERED that:

1. The case is stayed and all case deadlines, Court imposed and discovery related, are stayed until March 28, 2011 pending settlement discussions; and

2. In the event a settlement cannot be reached, the current case deadlines set forth in the Joint Stipulated Case Management Order (Dkt. No. 67) entered by this Court on September 2, 2010 and modified pursuant to the Court's November 30, 2010 Order and extended pursuant to the Court's January 5, 2011 Order will be extended as follows:

April 27, 2011	Parties file Joint Claim Construction and Prehearing Statement. Patent L.R. 4-3
May 11, 2011	Amended pleadings deadline.
May 31, 2011	Deadline for completing discovery on issues relating to claim construction for the patents-in-suit. Patent L.R. 4-4
June 13, 2011	Lenovo files Opening Claim Construction Brief. Patent L.R. 4-5(a)
June 27, 2011	Shuttle files Opposition Claim Construction Brief. Patent L.R. 4-5(b)
July 5, 2011	Lenovo files Reply Claim Construction Brief. Patent L.R. 4-5(c)
[To be set by Court on a date convenient to the Court on or after August 1, 2011]	Claim Construction Hearing.
50 days after issuance of Claim Construction Order	Parties relying upon advice of counsel to support any claim or defense must produce and serve all supporting documents. Patent L.R. 3-7.

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HONORABLE JEREMY FOGEL
UNITED STATES DISTRICT JUDGE

Dated: 2/28/11