

1 On October 15, 2009, the parties filed a stipulation requesting for the Court to extend
2 the briefing completion date on Plaintiffs' motion for class certification to March 8, 2010 and
3 continue the hearing on Plaintiffs' motion to March 22, 2010 in light of: (1) NVIDIA's motion
4 to dismiss which the Court would hear on October 19, 2009; (2) NVIDIA's motion to strike
5 class allegations which the Court would also hear on October 19, 2009; (3) the parties'
6 settlement conference set for December 16, 2009; and (4) Plaintiffs' anticipated motion to
7 compel production of certain documents that may bear on class certification issues. The Court
8 determined to extend the class certification briefing completion date to February 22, 2010 and
9 continue the hearing on the motion to March 22, 2010. Based on new circumstances in the
10 litigation set forth below, the parties request that the Court continue the briefing completion
11 date and hearing on class certification to April 2010.

12 Since the filing of the parties' October 15 stipulation, the Court ruled on NVIDIA's
13 motion to dismiss, upholding the majority of Plaintiffs' counts, dismissing two of Plaintiffs'
14 counts and granting leave to amend two of Plaintiffs' counts. The Court also ruled on
15 NVIDIA's motion to strike class allegations and denied the motion. Based on the Court's
16 order, Plaintiffs are preparing an amended complaint. NVIDIA may file a motion to dismiss
17 the amended complaint.

18 Also since the filing of the parties' prior stipulation, Plaintiffs filed a motion to compel
19 production of documents that implicated multi-party common interest and joint defense
20 privilege issues among NVIDIA and certain original equipment manufacturers ("OEMs").
21 Magistrate Judge Lloyd granted Plaintiffs' motion on December 1, 2009, and NVIDIA is
22 producing the contested documents to Plaintiffs pursuant to Judge Lloyd's order. NVIDIA is
23 producing documents consisting of several hundred thousand pages to Plaintiffs on a rolling
24 basis pursuant to agreements between Plaintiffs and NVIDIA, and Plaintiffs are evaluating the
25 documents. Evaluation of the documents is taking a significant amount of time because the
26 production is voluminous and Plaintiffs are in the process of structuring a settlement demand.

27
28

1 In addition, the parties are working toward structuring settlement negotiations in advance of the
2 December 16, 2009 mediation.

3 The parties believe it is beneficial to have a settled and operative complaint and a more
4 developed factual record, and to know the outcome of any subsequent motion to dismiss or the
5 parties' settlement efforts, before class certification is briefed. Further, the parties wish to
6 prevent the need to, and expense of, notifying the class twice in the event (a) a class is certified
7 requiring general notice, and (b) subsequent class notice if the case settles. If the mediation
8 process is successful then there will only be the expense of single class-wide settlement notice,
9 and class certification will likely not be contested.

10 For these reasons, the parties respectfully request that the Court extend completion of
11 class certification briefing to April 5, 2010 and continue the hearing to April 26, 2009. This
12 will ensure the briefing on class certification will be completed well in advance - over two
13 months - before the Preliminary Pretrial Conference, which is currently set for June 14, 2010.

14 IT IS STIPULATED AND AGREED, by and between Plaintiffs and NVIDIA, through
15 their counsel of record, subject to Court approval, that:

16 1. All briefing on the motion for class certification shall be completed by April 5,
17 2010;

18 2. The current February 22, 2010 deadline for completion of briefing for class
19 certification shall be vacated; and

20 3. The hearing date for the motion for class certification currently set for March 22,
21 2010 at 9:00 a.m. shall be vacated and a new hearing date for the motion for class certification
22 shall be scheduled for April 26, 2010 at 9:00 a.m.

23 DATED: December 9, 2009

MILBERG LLP
JEFF S. WESTERMAN
NICOLE M. DUCKETT

24
25
26 /s/ Jeff S. Westerman
JEFF S. WESTERMAN

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

One California Plaza
300 S. Grand Avenue, Suite 3900
Los Angeles, CA 90071
Telephone: (213) 617-1200
Facsimile: (213) 617-1975

Interim Lead Class Counsel

DATED: December 9, 2009

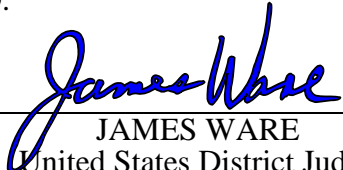
ORRICK HERRINGTON & SUTCLIFFE LLP
ROBERT P. VARIAN
JAMES NEIL KRAMER
JUSTIN MYER LICHTERMAN
JOSHUA DANIEL WATTS

/s/ Justin M. Lichterman
JUSTIN M. LICHTERMAN

405 Howard Street
San Francisco, CA 94105
Telephone: (415) 773-5700
Facsimile: (415) 773-5759
Counsel for Defendant NVIDIA Corporation

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: December 18, 2009


JAMES WARE
United States District Judge

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

CERTIFICATE OF SERVICE

I hereby certify that on December 9, 2009, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury that the foregoing is true and correct. Executed on December 9, 2009.



CECILLE CHAFFINS