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NVIDIA CORPORATION

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

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14 The NVIDIA GPU Litigation
15
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17 This Document Relates To:
18
19 ALL ACTIONS
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Case No. C 08-04312 JW
STIPULATION AND [PROPOSED]
ORDER RE SECOND
SUPPLEMENTAL NOTICE OF
SETTLEMENT

1 By order dated September 15, 2010, this Court granted preliminary approval of the
2 Stipulation and Agreement of Settlement and Release (the “Preliminary Approval Order”), and
3 approved the Notice, the form and content of the related documents, and the Notice Plan, as
4 defined in the Preliminary Approval Order.

5 The Preliminary Approval Order directed the Settlement Administrator to commence the
6 Notice Plan, including causing direct notice to be sent to members of the Settlement Class, on or
7 before September 30, 2010. The Settlement Administrator completed direct notice to
8 approximately 5.1 million potential class members on September 30, 2010, initiated a media and
9 publication campaign, and established a settlement website, as contemplated by the Stipulation
10 and Agreement of Settlement and Release and Preliminary Approval Order.

11 The parties recently discovered that, due to a typographical error, the Stipulation and
12 Agreement of Settlement and Release omitted four Product Identification Numbers relating to the
13 HP Compaq Presario F500 model. The parties therefore agree to amend Exhibit One to the
14 Stipulation and Agreement of Settlement and Release to add the following Product Identification
15 Numbers to the section pertaining to the HP Compaq Presario F500: GD598AV, GL935UA,
16 RS499AV, and RS500AV (the “Additional F500 Product Identification Numbers”).

17 The parties were also informed on October 26, 2010, that contact information for some
18 owners of certain HP computers encompassed by the Settlement inadvertently was omitted from
19 the contact information data provided to the Settlement Administrator. The Product Identification
20 Numbers for these computers and the Additional F500 Product Identification Numbers are
21 hereinafter referred to as the “Additional Product Identification Numbers,” and are set forth on
22 Exhibit A.

23 The Parties were also informed by the Settlement Administrator that the most expeditious
24 means of providing notice to purchasers of computers with the Additional Product Identification
25 Numbers is to do so concurrently with the revised notice to HP TX1000 owners ordered by this
26 Court on October 22, 2010, but such notice cannot be completed until November 3, 2010.

27 The parties agree it is appropriate to provide supplemental notice to the potential class
28 members owning computers with the Additional Product Identification Numbers, and to provide

1 that notice concurrently with the supplemental notice to HP TX1000 owners previously ordered
2 by this Court. Therefore, the parties agree to adjust the deadlines for objections to, and exclusion
3 from, the class for those potential class members in order to ensure they enjoy the same 36-day
4 time period to lodge objections and requests for exclusions as those class members who already
5 received notice. *See, e.g., Dupler v. Costco Wholesale Corp.*, 705 F. Supp. 2d 231, 248-49
6 (E.D.N.Y. 2010) (permitting supplemental notice only to subset of class who inadvertently did
7 not receive direct notice, and where objection and request for exclusion deadlines were extended).

8 The parties agree the supplemental notice to persons who purchased HP TX1000
9 computers, and the notice to persons who purchased computers with Additional Product
10 Identification Numbers, but may not previously have received direct notice, shall be completed on
11 or before November 3, 2010.¹ Such supplemental notice is appropriate, and would not cause any
12 prejudice to any party or potential class member or affect the current December 20, 2010 Final
13 Approval hearing date, which shall remain in effect.

14 Except as provided herein, the Stipulation and Agreement of Settlement and Release and
15 Preliminary Approval Order shall remain in full force and effect according to their terms, as
16 modified by this Court's Order dated October 22, 2010.

17 Accordingly, IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiffs
18 and NVIDIA Corporation, through their counsel of record and Interim Lead Class Counsel for
19 Plaintiffs, that:

20 1. The Settlement Administrator shall provide supplemental notice in substantially
21 the form attached hereto as Exhibit B only to owners of HP TX1000 computer systems and to
22 owners of HP computer systems with the Additional Product Identification Numbers on or before
23 November 3, 2010, at no expense to those potential class members;

24 2. The November 5, 2010, deadline for objections and requests for exclusions
25 contained in paragraphs 11 and 12 of the Preliminary Approval Order shall be adjusted to
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28 ¹ The supplemental notice to Dell Vostro 1700 owners, also ordered by this Court on October 22, 2010, is unaffected
by this development and will proceed as ordered on November 1, 2010.

1 December 9, 2010, but only for owners of HP TX1000 series computer systems and for owners of
2 HP computer systems with the Additional Product Identification Numbers.

3 3. Except as provided herein, all other deadlines, hearing dates, terms of the
4 Stipulation and Agreement of Settlement and Release, and provisions of the Preliminary
5 Approval Order shall remain unchanged and in full force and effect.

6 Dated: October 27, 2010

7 ROBERT P. VARIAN
8 JAMES N. KRAMER
9 JUSTIN M. LICHTERMAN
10 Orrick, Herrington & Sutcliffe LLP

11 /s/ Justin M. Lichterman

12 JUSTIN M. LICHTERMAN
13 Attorneys for Defendant
14 NVIDIA CORPORATION

15 Dated: October 27, 2010

16 JEFF S. WESTERMAN
17 NICOLE M. DUCKETT
18 Milberg LLP

19 /s/ Nicole M. Duckett

20 NICOLE M. DUCKETT
21 Interim Lead Class Counsel for
22 Plaintiffs and All Others Similarly Situated

23 The filer attests that concurrence in the filing of the document has been obtained from
24 each of the other signatories, or from the single signatory (in the case, e.g., of a declaration)
25 which shall serve in lieu of their signature(s) on the document.

26 IT IS SO ORDERED:

27 DATE: November 2, 2010

28 
UNITED STATES DISTRICT JUDGE

DECLARATION OF SERVICE BY CM/ECF AND/OR MAIL

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, employed in the County of Los Angeles, over the age of 18 years, and not a party to or interest in the within action; that declarant's business address is One California Plaza, 300 South Grand Avenue, Suite 3900, Los Angeles, California 90071-3149.

2. Declarant hereby certifies that on October 27, 2010, declarant served the **STIPULATION AND [PROPOSED] ORDER RE SECOND SUPPLEMENTAL NOTICE OF SETTLEMENT** by electronically filing the foregoing document listed above by using the Case Management/ Electronic Case filing system.

3. Declarant further certifies:

☒ All participants in the case are registered CM/ECF users and that service will be accomplished by the court's CM/ECF system

☐ Participants in the case who are registered CM/ECF users will be served by the court's CM/ECF system. Participants in the case that are not registered CM/ECF users will be served by First-Class Mail, postage pre-paid or have dispatched to a third-party commercial carrier for delivery to the non-CM/ECF participants as addressed and listed in the Service List.

4. That there is a regular communication by mail between the place of mailing and the places so addressed.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 27th day of October, 2010, at Los Angeles, California.


ELIZABETH VILLALOBOS