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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Carlyle Fortran Trust,
Plaintiff,
v.
NVIDIA Corp.,
Defendant.

NO. C 05-00427 JW
NO. C 08-04634 RMW

**ORDER DENYING DEFENDANT’S
ADMINISTRATIVE MOTION TO
RELATE CASES**

United States District Court
For the Northern District of California

Presently before the Court is Defendant NVIDIA’s Administrative Motion to Relate Cases. (hereafter, “Motion,” Docket Item No. 253.) Defendant moves pursuant to Civil Local Rules 3-12 and 7-11 to relate Brandt v. NVIDIA Corp., C 08-04634-RMW (“Bankruptcy Appeal”) with the following cases currently pending before the Court: Carlyle Fortran Trust v. NVIDIA Corp., C 05-00427-JW; CarrAmerica Realty Corp. v. NVIDIA Corp., C 05-00428-JW; Brandt v. NVIDIA Corp., C 05-00429-JW; NVIDIA Corp. v. Official Committee of Equity Security Holders, C 06-03238-JW; NVIDA Corp. v. Brandt, C 06-3856-JW. Defendant contends that the Bankruptcy Appeal is related to the above cases because (1) they all arise from the same “negotiation, structure, execution, purpose, effect of, obligations under, and purchase by NVIDIA of certain assets” pursuant to an “Asset Purchase Agreement;” and (2) conducting the Bankruptcy Appeal before Judge Whyte will result in “unduly burdensome duplication of labor and expense and a risk of conflicting results.” (Motion at 4-5.)

Civil Local Rule 3-12(a) provides that an action is related to another when (1) [t]he actions concern substantially the same parties, property, transaction, or event; and (2) [i]t appears likely that

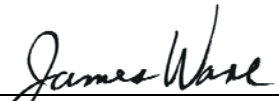
1 there will be an unduly burdensome duplication of labor and expense or conflicting results if the
2 cases are conducted before different judges.

3 Upon review of the papers submitted by the parties, the Court finds that the Bankruptcy
4 Appeal is not related to the above cases within the meaning of Civil L.R. 3-12. In particular, the
5 Court sees little possibility of “unduly burdensome duplication of labor . . . or conflicting results” if
6 the Bankruptcy Appeal is conducted before Judge Whyte. The other five cases pending before the
7 Court are either on appeal before the Ninth Circuit or have been inactive for over two years. (See
8 Opposition to NVIDIA Defendant’s Administrative Motion to Relate Cases at 1-3, Docket Item No.
9 256.) The Bankruptcy Appeal, in contrast, is presently on appeal from a trial before the Bankruptcy
10 Court and subsequent summary judgment. Given the current inactive or on-appeal status of the
11 allegedly related cases, and given that the Bankruptcy Appeal will involve a narrow review of issues
12 decided by the Bankruptcy Court, the Court is not concerned by the possibilities of duplicative labor
13 or of conflicting results.

14 Accordingly, Defendant NVIDIA’s Administrative Motion to Relate Cases is DENIED.

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16 Dated: October 24, 2008



JAMES WARE
United States District Judge

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1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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18 **Dated: October 24, 2008**

Richard W. Wieking, Clerk

19 **By: /s/ JW Chambers**
20 **Elizabeth Garcia**
21 **Courtroom Deputy**

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