

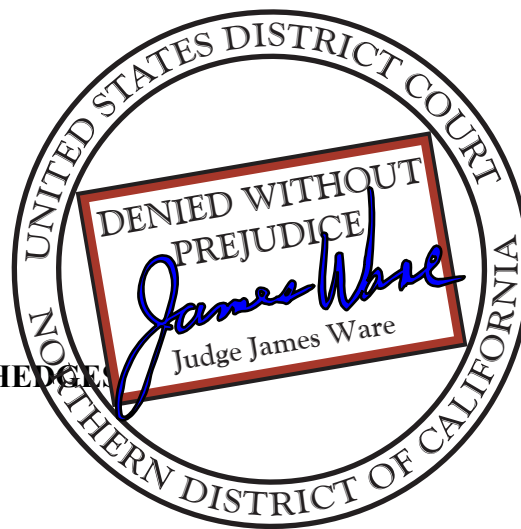
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15
 16 **UNITED STATES DISTRICT COURT**
 17 **NORTHERN DISTRICT OF CALIFORNIA**
 18 **SAN JOSE DIVISION**

19 KEVIN EMBRY, an individual, on behalf of
 20 himself, the general public and those similarly
 21 situated

22 Plaintiff,

23 v.

24 ACER AMERICA CORPORATION; AND
 DOES 1 THROUGH 50

25 Defendants
 26

CASE NO. CV-09-01808 (JW)

**STIPULATION TO CONTINUE CLASS
 CERTIFICATION DISCOVERY CUTOFF
 AND BRIEFING SCHEDULE**

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1 TO THE COURT:

2 WHEREAS, the Court has set the following schedule for class certification: discovery
3 cutoff on December 4, 2009; motion due January 18, 2008; opposition due February 1, 2009;
4 reply due February 8, 2009; hearing February 22, 2009.

5 WHEREAS, Plaintiff served interrogatories and requests for production on August 27,
6 2009;

7 WHEREAS, Defendant served objections and responses to the discovery on October 1,
8 2009, which included agreement to produce certain documents;

9 WHEREAS, the parties are continuing to meet and confer about Defendants' objections
10 and the scope and timing of production, which has not yet commenced;

11 WHEREAS, Plaintiff contends that more time is required to resolve the discovery disputes
12 (including, if necessary, motion practice before the Magistrate with possible review by this
13 Court), obtain and review documents, and take depositions;

14 WHEREAS, the parties also have been discussing the possibility of and structure for
15 settlement and it is possible that a settlement might be reached in advance of a class certification
16 motion; and

17 WHEREAS, the due date for the motion for class certification is Martin Luther King, Jr.
18 Day, a Court holiday;

19 NOW THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE that, if the
20 Court approves, the dates for class certification, including the discovery cut-off date, should be
21 extended for approximately 90 days, so that the new dates will be as follows:

| | | |
|----|-------------------|----------------|
| 22 | Discovery Cutoff: | March 5, 2009 |
| 23 | Motion Due: | March 22, 2009 |
| 24 | Opposition Due: | April 5, 2009 |
| 25 | Reply Due: | April 12, 2009 |
| 26 | Hearing: | April 26, 2009 |

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1 IT IS SO STIPULATED.

2 DATED: October 29, 2009

GUTRIDE SAFIER LLP

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By: /s/ Adam Gutride

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Adam Gutride

Seth A. Safier

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Attorneys for Plaintiff Kevin Embry

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8 DATED: October 29, 2009

QUINN EMANUEL URQUHART OLIVER &
HEDGES, LLP

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10

By: /s/ Stan Karas

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Jeffery D. McFarland

Stan Karas

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A.J. Bedel

Attorneys for Defendant Acer America

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Corporation


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15 ***** ORDER *****

The Stipulation is DENIED because the dates proposed are invalid.

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17 Date: October 30, 2009



JAMES WARE

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United States District Judge

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