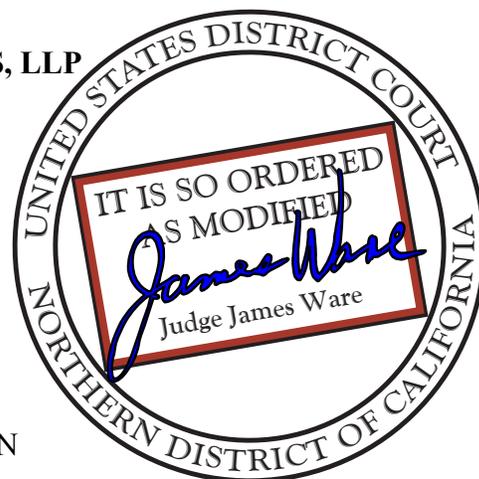


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3/16/2010

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

CASE NO. CV-09-01808 (JW)

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

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28

1 TO THE COURT:

2 WHEREAS, pursuant to the parties' stipulation of October 29, 2009, the Court has set the
3 following schedule for class certification: discovery cutoff on March 5, 2010; motion due
4 March 22, 2010; opposition due April 5, 2010; reply due April 9, 2010; hearing April 26, 2010;

5 WHEREAS, the parties have engaged in substantial discussions about possible structures
6 to settle this case;

7 WHEREAS, on February 17, 2010, Defendant produced versions of the Windows
8 operating system that were installed on Acer computers sold in the United States during the
9 proposed class period;

10 WHEREAS, Defendants are still in the process of preparing a list showing which version
11 of the operating system was installed on each model computer it sold;

12 WHEREAS, Plaintiffs have retained an expert to identify any differences between (1) the
13 versions of the Windows operating system that were installed on the Acer computers and (2) the
14 same-named versions of the Windows operating system that were sold at retail and/or available
15 under Microsoft's standard OEM license;

16 WHEREAS, Plaintiffs' expert estimates that he will complete the analysis by April, 2010;

17 WHEREAS, after the expert analysis is complete, the parties will need additional time to
18 continue their settlement discussions;

19 WHEREAS, the parties believe these settlement discussions will be most likely to succeed
20 if the class certification discovery cutoff and briefing schedule are further continued;

21 NOW THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE that the
22 dates for class certification, including the discovery cut-off date, should be extended for
23 approximately 120 days, so that the new dates will be as follows:

24 Discovery Cutoff: **April 5, 2010**

25 Motion Due: **April 26, 2010**

26 Opposition Due: **May 17, 2010**

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Reply Due: **May 31, 2010**
Hearing: **June 21, 2010 at 9:00 AM.**

The Case Management Conference set for April 26,2010 at 10:00 AM is also continued to **June 21, 2010 at 10:00 AM.** The parties are to file joint case management conference statement on or before **June 11, 2010.**

DATED: March 5, 2010 GUTRIDE SAFIER LLP

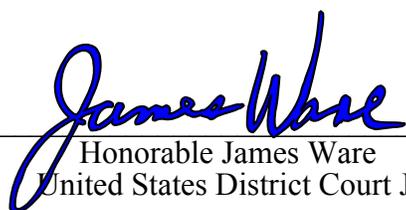
By: /s/ Adam Gutride
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Seth A. Safier
Attorneys for Plaintiff Kevin Embry

DATED: March 5, 2010 QUINN EMANUEL URQUHART OLIVER & HEDGES, LLP

By: /s/ Jeff McFarland
Jeffery D. McFarland
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A.J. Bedel
Attorneys for Defendant Acer America Corporation

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED **AS MODIFIED**

DATED: March 16, _____, 2010



Honorable James Ware
United States District Court Judge