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Attorneys for Defendant  
 TREND MICRO, INC. (USA) sued herein as  
 TREND MICRO CORPORATION



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

19 BRIAN GRAIFMAN, on Behalf of Himself, All  
 20 Others Similarly Situated, and the General  
 Public,

21 Plaintiff,

22 v.

23 TREND MICRO CORPORATION, and DOES  
 24 1 through 10, Inclusive,

25 Defendants.

**Case No. CV11-02488 RMW**

**STIPULATION AND ORDER  
 [ ] EXTENDING TIME TO  
 RESPOND TO DISCOVERY**

**Complaint Filed: March 2, 2011**

**STIPULATION**

1  
2 Plaintiff BRIAN GRAIFMAN (including any and all other persons that he may be  
3 determined to represent) (“Plaintiff”) and Defendant TREND MICRO INC. (USA)(“Trend Micro”),  
4 by and through their respective counsel, enter into this Stipulation.

5 **WHEREAS**, on December 9, 2011, the Parties filed a Stipulation and Order Extending Time  
6 to Respond to First Amended Complaint and Discovery, providing that Defendant was to answer  
7 Plaintiff’s Amended Complaint and serve responses to Plaintiff’s Revised First Set of Requests for  
8 Production of Documents and Revised First Set of Interrogatories by December 28, 2011.

9 **WHEREAS**, the Court approved the December 9, 2011 Stipulation referred to above and  
10 entered an order thereon on January 10, 2012 (Dkt. No. 51)(“the January 10 Scheduling Order”).

11 **WHEREAS**, on December 28, 2011, Trend Micro served its Responses and Objections to  
12 Plaintiff’s Revised First Set of Requests for Production of Documents and Revised First Set of  
13 Interrogatories.

14 **WHEREAS**, Trend Micro served an expert report on Plaintiff on January 13, 2012 that  
15 included a survey by the expert.

16 **WHEREAS**, Trend Micro began production of documents on a rolling basis as of January  
17 23, 2012, and, based on the information currently available to it, believes that as of April 22, 2012 it  
18 will have completed the production of the majority of the documents that it has agreed to produce;  
19 however, locating and collecting further documents that may be within the categories of documents  
20 that Trend Micro has agreed to produce has taken longer than expected for a variety of reasons,  
21 including, but not limited to, the fact that Trend Micro has had to restore and search one or more  
22 decommissioned servers in a foreign country and search for email files dating back many years,  
23 including email files of employees who no longer work for said defendant.

24 **WHEREAS**, Defendant’s counsel now believe that production of class-related material  
25 requested by Plaintiff can be completed by April 22, 2012.

26 **WHEREAS**, Plaintiff’s counsel contend that they cannot conduct depositions of Defendant’s  
27 expert, nor the witnesses interviewed by Defendant’s expert, until Plaintiff reviews all documents  
28 that Trend Micro produces; and, further, that they cannot properly prepare an expert rebuttal report

1 until the depositions of the persons referred to above are completed, which contentions are disputed  
2 by Trend Micro.

3 **WHEREAS**, on January 13, 2012; January 27, 2012; February 22, 2012; and March 16,  
4 2012 the parties met and conferred regarding the outstanding production of Defendant's documents,  
5 Plaintiff's Rebuttal Expert Report, and discussed whether additional time was needed to complete  
6 both.

7 **WHEREAS**, in order to address the issues of allowing the Parties further time to complete  
8 discovery and the review of same, and allowing Plaintiff further time to prepare an expert rebuttal  
9 report, without the necessity of filing a motion, the Parties are stipulating to the extensions set forth  
10 below from the dates set forth in ¶ 3.a. – g., of the Court's January 10 Scheduling Order.

11 **IT IS THEREFORE STIPULATED** that:

12 1. The dates and deadlines for the class certification phase of this action and as set forth  
13 in the January 10, 2012 Scheduling Order at ¶ 3.a.-g., are extended as follows:

- 14 a. Designation of Rebuttal Class Certification Experts – from February 3, 2012  
15 to **May 23, 2012;**
- 16 b. Close of Class Certification Discovery – from February 24, 2012 to **June 22,**  
17 **2012;**
- 18 c. Filing of Class Certification motion –from March 13, 2012 to **July 13, 2012;**
- 19 d. Filing of Opposition to Class Certification motion – from April 12, 2012 to  
20 **August 13, 2012;**
- 21 e. Filing of Reply to Class Certification motion – from May 7, 2012 to  
22 **September 13, 2012;**
- 23 g. Hearing on class certification motion – from June 1, 2012 to **October 12,**  
24 **2012.**

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IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: March 21, 2012

BAKER & McKENZIE LLP

By: /s/ Tod L. Gamlen  
Tod L. Gamlen  
Attorneys for Defendant  
TREND MICRO, INC. (USA) sued herein  
as TREND MICRO, CORPORATION

Dated: March 21, 2012

STULL, STULL & BRODY

By: /s/ Timothy J. Burke  
Timothy J. Burke  
Attorneys for Plaintiff  
BRIAN GRAIFMAN

**ATTESTATION OF CONCURRENCE BY TOD L. GAMLEN**

I, Tod L. Gamlen, hereby attest that I am one of the attorneys for Trend Micro Incorporated (USA), and, as the ECF user and filer of this document, I attest that, pursuant to General Order No. 45(X)(B), concurrence in the filing of this document has been obtained from Timothy J. Burke, the above signatory.

Dated: March 21, 2012

By: /s/ Tod L. Gamlen

**ORDER** \_\_\_\_\_

Pursuant to stipulation IT IS SO ORDERED.

Dated: March \_\_\_\_\_, 2012

  
UNITED STATES DISTRICT COURT JUDGE

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