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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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

Plaintiff,

v.

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

Defendants.

Case No. CV11-02488 RMW

**ORDER CERTIFYING
SETTLEMENT CLASS AND
GRANTING FINAL APPROVAL OF
CLASS ACTION SETTLEMENT**

Complaint Filed: March 2, 2011

ORDER

On _____, this Court conducted a hearing on the Parties' Joint Motion for Final Approval of Class Action Settlement and Plaintiffs' Motion for an Award of Attorneys' Fees and Costs. Having considered the Parties Settlement Agreement, all of the legal authorities and documents submitted in support thereof, and good cause appearing,

IT IS HEREBY ORDERED that both motions are GRANTED, subject to the following findings and conclusions:

1. All terms used herein shall have the same meaning as defined in the Parties' Settlement Agreement.

1 2. Certification of Settlement Class. Pursuant to Rules 23(b)(3) of the Federal Rules of
2 Civil Procedure, the Court hereby certifies this Action as a class action on behalf of the following
3 Settlement Class:

4 All persons and entities residing in the United States of America who, after March
5 2, 2007, extended a Trend Micro software subscription with Trend Micro, at
6 Trend Micro’s online subscription renewal website, prior to the expiration of an
7 existing Trend Micro software subscription, and whose then-existing subscription
8 was cut off and replaced by the new subscription. Included within this class are
9 all such persons and entities who, prior to the expiration of their then current
10 license and through Trend Micro’s online subscription renewal website, either (i)
11 purchased a paid license for a Trend Micro Product to replace a free trial license
12 (that is, “converted”), (ii) renewed their then current license (that is, “renewed”),
13 or (iii) purchased a license for an upgraded Trend Micro Product (that is,
14 “upgraded”). Excluded from the Settlement Class are defendant and its agents
15 and affiliates, government entities, and any customer for whom, at the customer’s
16 request, Trend Micro provided an additional extension that reinstated in full the
17 time remaining on the existing subscription.

18 3. Jurisdiction. The Court has jurisdiction over the subject matter of this Action and
19 over all Parties to this Action, including all Class Members.

20 4. Distribution of the Class Notices and the Claims Forms directed to the Class
21 Members as set forth in the Settlement Agreement and the other matters set forth therein have been
22 completed in conformity with the Court’s Order granting Preliminary Approval, including individual
23 notice to all Class Members who could be identified through reasonable effort, and the best notice
24 practicable under the circumstances. The Notice provided due and adequate notice of the
25 proceedings and of the matters set forth therein, including the proposed Settlement set forth in the
26 Settlement Agreement, to all persons entitled to such Notice, and the Class Notices fully satisfied the
27 requirements of due process. All Class Members and all Released Claims are covered by and
28 included within the Settlement and this Final Order.

 5. The Court hereby finds the Settlement was entered into in good faith. The Court
further finds that the Settlement is fair, reasonable, and adequate and that Plaintiff has satisfied the
standards and applicable requirements for final approval of this class action settlement under Federal
Rule of Civil Procedure 23.

 6. The Court hereby approves the Settlement Agreement and finds that it is, in all
respects, fair, adequate and reasonable. The Court also directs the Parties to effectuate the

1 Agreement according to its terms. The Court finds that the Settlement has been reached as a result of
2 intensive, serious and non-collusive, arms' length negotiations. The Court further finds that the
3 Parties have conducted extensive and costly investigation and research, and counsel for the Parties
4 are able to reasonably evaluate their respective positions. The Court also finds that Settlement at this
5 time will avoid additional substantial costs, as well as avoid the delay and risks that would be
6 presented by the further prosecution of the Action. The Court has reviewed the benefits that are
7 being granted as part of the Settlement and recognizes the significant value to the Class Members.

8 7. This Settlement Order and Judgment does not constitute an expression by the Court
9 of any opinion, position or determination as to the merit or lack of merit of any of the claims and/or
10 defenses of the Representative Plaintiff, the Settlement Class, or Trend Micro. Neither this Final
11 Order and Judgment, nor the Settlement Agreement, nor the fact of settlement, nor the settlement
12 proceedings, nor settlement negotiations, nor any related document, shall be used as an admission of
13 any fault or omission by Trend Micro or be offered or received in evidence as an admission,
14 concession, presumption, or inference against Trend Micro for any purpose whatsoever other than in
15 such proceedings as may be necessary to consummate or enforce the Agreement.

16 8. The Court hereby enters a judgment of dismissal of the entire Action, with prejudice,
17 as of the filing date of this Final Order, pursuant to the terms set forth in the Settlement Agreement.
18 Without affecting the finality of this Final Order in any way, the Court hereby retains continuing
19 jurisdiction over the interpretation, implementation and enforcement of the Settlement Agreement
20 and all orders entered in connection therewith.

21 9. Pursuant to the terms of the Settlement, and the authorities, evidence and argument
22 submitted by Plaintiff's Counsel, the Court hereby awards Plaintiff's Counsel attorneys' fees and
23 costs in the amount of \$_____ and \$_____, respectively, as final payment for and
24 complete satisfaction of any and all attorneys' fees and costs incurred by and/or owed to Plaintiff's
25 Counsel and any other person or entity related to the Action. The Court further orders that
26 Plaintiff/class representative be paid the sum of \$1,000.00 as an incentive award. The Court further
27 orders that the award of attorneys' fees and costs and incentive award set forth in this Paragraph
28 shall be administered pursuant to the terms of the Settlement Agreement.

