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24 INC.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

29 COLLEEN FISCHER; KURT FAIRFIELD; HARRY
30 SARAFIAN; DAVID WILLIAMS; STEPHANIE
31 WIRTH; JOHN SWAFFORD; LUKE
32 SZULCZEWSKI; RICHARD ROSENFIELD;
33 MICHAEL ZEMARTIS; TIMOTHY DODSON;
34 EVAN BROOKS; MARCUS NEAL; BRIAN
35 SANDSTROM; JOHN WOODS; LEONARD
36 HOBBS; and KENNETH TISHENKEL, on behalf of
37 themselves and all others similarly situated,

38 Plaintiffs,

39 v.

40 CARRIER IQ, INC., LG ELECTRONICS, INC.; LG
41 ELECTRONICS MOBILECOMM U.S.A., INC.; HTC
42 CORPORATION; HTC AMERICA, INC.;
43 SAMSUNG ELECTRONICS CO., LTD.; SAMSUNG
44 ELECTRONICS AMERICA, INC.; and SAMSUNG
45 TELECOMMUNICATIONS AMERICA, INC.,

46 Defendants.

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66 CASE NO. 5:11-cv-06199 RMW

67 **STIPULATION TO EXTEND
68 TIME FOR DEFENDANT TO
69 RESPOND TO COMPLAINT
70 AND [] ORDER
71 EXTENDING TIME TO
72 RESPOND TO COMPLAINT**

1 WHEREAS the above-referenced plaintiffs filed the above-captioned case;

2 WHEREAS the above-referenced plaintiffs allege violations of the Federal

3 Wiretap Act and other laws by the defendants in this case;

4 WHEREAS over 50 other complaints have been filed to-date in federal district
5 courts throughout the United States by plaintiffs purporting to bring class actions on behalf of
6 cellular telephone and other device users on whose devices software made by defendant Carrier
7 IQ, Inc. is or has been embedded (collectively, including the above-captioned matter, the “CIQ
8 cases”);

9 WHEREAS, a motion is pending before the Judicial Panel on Multidistrict
10 Litigation to transfer the CIQ cases to this jurisdiction for coordinated or consolidated pretrial
11 proceedings pursuant to 28 U.S.C. § 1407, and numerous responses to the motion supporting
12 coordination or consolidation have been filed;

13 WHEREAS plaintiffs anticipate the possibility of one or more consolidated
14 amended complaints in the CIQ cases;

15 WHEREAS plaintiffs and defendant HTC America, Inc. have agreed that an
16 orderly schedule for any response to the pleadings in the CIQ cases would be more efficient for
17 the parties and for the Court;

18 WHEREAS plaintiffs agree that the deadline for defendant HTC America, Inc. to
19 answer, move, or otherwise respond to their complaint shall be extended until the earliest of the
20 following dates: (1) forty-five days after the filing of a consolidated amended complaint in the
21 CIQ cases; or (2) forty-five days after plaintiffs provide written notice to defendants that plaintiffs
22 do not intend to file a consolidated amended complaint; or (3) as otherwise ordered by this Court
23 or the MDL transferee court; *provided*, however, that in the event that HTC America, Inc. should
24 agree to an earlier response date in any of these cases, HTC America, Inc. will respond to the
25 complaint in the above-captioned action on that earlier date;

26 WHEREAS plaintiffs further agree that this extension is available, without further
27 stipulation with counsel for plaintiffs, to all named defendants who notify plaintiffs in writing of
28 their intention to join this Stipulation;

1 WHEREAS this Stipulation does not constitute a waiver by HTC America, Inc. of
2 any defense, including but not limited to the defenses of lack of personal jurisdiction, subject
3 matter jurisdiction, improper venue, sufficiency of process or service of process;

4 WHEREAS, with respect to any defendant joining the Stipulation, this Stipulation
5 does not constitute a waiver of any defense, including but not limited to the defenses of lack of
6 personal jurisdiction, subject matter jurisdiction, improper venue, sufficiency of process, or
7 service of process; and

8 WHEREAS, plaintiffs and defendant HTC America, Inc., as well as any defendant
9 joining this Stipulation, agree that preservation of evidence in the CIQ cases is vital, that
10 defendants have received litigation hold letters, that they are complying with and will continue to
11 comply with all of their evidence preservation obligations under governing law, and that the
12 delay brought about by this Stipulation should not result in the loss of any evidence,

13 Now, therefore, pursuant to Civil Local Rule 7-12, plaintiffs in the above-
14 referenced case and defendant HTC America, Inc., by and through their respective counsel of
15 record, hereby stipulate as follows:

- 16 1. The deadline for HTC America, Inc. to answer, move, or otherwise respond to
17 plaintiffs' complaint shall be extended until the earliest of the following dates:
18 forty-five days after the filing of a consolidated amended complaint in these cases;
19 or forty-five days after plaintiffs provide written notice to defendant HTC
20 America, Inc. that plaintiffs do not intend to file a Consolidated Amended
21 Complaint; or as otherwise ordered by this Court or the MDL transferee court;
22 *provided*, however, that in the event that HTC America, Inc. should agree to an
23 earlier response date in any of these cases, except by court order, HTC America,
24 Inc. will respond to the complaint in the above-captioned case on that earlier date.
- 25 2. This extension is available, without further stipulation with counsel for plaintiffs,
26 to all named defendants who notify plaintiffs in writing of their intention to join
27 this Stipulation;

3. This Stipulation does not constitute a waiver by HTC America, Inc. or any other named defendant joining the Stipulation of any defense, including but not limited to the defenses of lack of personal jurisdiction, subject matter jurisdiction, improper venue, sufficiency of process, or service of process.
4. As a condition of entry into this Stipulation, defendant HTC America, Inc. and any other defendant(s) joining this Stipulation, and the plaintiffs, agree that they are complying with and will continue to comply with all evidentiary preservation obligations under governing law.

IT IS SO STIPULATED.

DATED: January 9, 2012

MUNGER, TOLLES & OLSON LLP

By: /s/ Rosemarie T. Ring
Rosemarie T. Ring
Attorneys for Defendant
HTC America, Inc.

DATED: January 9, 2012

HAGENS BERMAN SOBOL SHAPIRO LLP

By: /s/ Robert F. Lopez
Robert F. Lopez
Attorneys for Plaintiffs

[] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____



Ronald M. Whyte
United States District Judge

CERTIFICATION

2 I, Rosemarie T. Ring, am the ECF User whose identification and password are
3 being used to file this STIPULATION RE: EXTENSION OF TIME FOR DEFENDANT TO
4 RESPOND TO COMPLAINT AND [PROPOSED] ORDER EXTENDING TIME TO
5 RESPOND TO COMPLAINT. In compliance with General Order 45.X.B., I hereby attest that
6 Robert F. Lopez concurred in this filing.