

**\*\* E-filed January 19, 2012 \*\***

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*Attorneys for Plaintiff and the Proposed Class*

Attorneys for Defendant, HTC AMERICA, INC.

*Additional Counsel listed on signature page*

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION

MICHAEL ALLAN, on behalf of himself and all others similarly situated,

Plaintiffs,

v.

CARRIER IQ, INC., a Delaware corporation, HTC CORPORATION, a Taiwan company; HTC AMERICA, INC., a Washington corporation; and DOES 1-100,

Defendants.

CASE NO. CV-11-06613 HRL

**STIPULATION EXTENDING TIME FOR DEFENDANTS TO RESPOND TO COMPLAINT AND ~~PROPOSED~~ ORDER (MODIFIED BY THE COURT)**

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

2                   WHEREAS the above-referenced plaintiff alleges 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 plaintiff anticipates the possibility of one or more consolidated  
14 amended complaints in the CIQ cases;

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

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

27                   WHEREAS plaintiff further agrees that this extension is available, without further  
28 stipulation with counsel for plaintiff, to all named defendants who notify plaintiff <sup>and the court</sup> in writing of

1 their intention to join this Stipulation;

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

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

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

15 Now, therefore, pursuant to Civil Local Rules 6-1, 6-2, and 7-12, plaintiff in the  
16 above-referenced case and defendants Carrier IQ, Inc. and HTC America, Inc., by and through  
17 their respective counsel of record, hereby stipulate as follows:

- 18 1. The deadline for Carrier IQ, Inc. and HTC America, Inc. to answer, move, or  
19 otherwise respond to plaintiff's complaint shall be extended until the earliest of the  
20 following dates: forty-five days after the filing of a consolidated amended  
21 complaint in these cases; or forty-five days after plaintiff provides written notice to  
22 defendants that plaintiff does not intend to file a Consolidated Amended  
23 Complaint; or as otherwise ordered by this Court or the MDL transferee court;  
24 *provided*, however, that in the event that Carrier IQ, Inc. or HTC America, Inc.  
25 should agree to an earlier response date in any of the CIQ cases, except by court  
26 order, Carrier IQ, Inc. or HTC America, Inc., whichever of these two defendants  
27 has so agreed, will respond to the complaint in the above-captioned case on that  
28 agreed date;

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2. This extension is available, without further stipulation with counsel for plaintiff, to all named defendants who notify plaintiff in writing of their intention to join this Stipulation; and the court
3. This Stipulation does not constitute a waiver by Carrier IQ, Inc., 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, defendants Carrier IQ, Inc., HTC America, Inc., and any other defendant(s) joining this Stipulation, and the plaintiff, agree that they are complying with and will continue to comply with all evidentiary preservation obligations under governing law.

IT IS SO STIPULATED.

1 DATED: January 13, 2012

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By: /s/ Michael W. Sobol

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*Attorneys for Plaintiff and the Proposed Class*

9 DATED: January 13, 2012

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Jennifer J. Johnson

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By: /s/ Tyler G. Newby

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Tyler G. Newby  
Attorneys for Defendant  
Carrier IQ, Inc.

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DATED: January 13, 2012

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By: /s/ Rosemarie T. Ring

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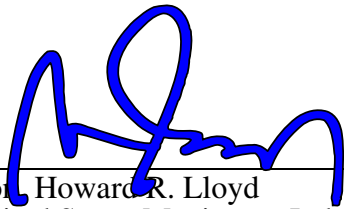
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~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: January 19, 2012

  
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Hon. Howard R. Lloyd  
United States Magistrate Judge

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**CERTIFICATION**

I, Rosemarie T. Ring, am the ECF User whose identification and password are being used to file this STIPULATION EXTENDING TIME FOR DEFENDANTS TO RESPOND TO COMPLAINT AND [PROPOSED] ORDER. In compliance with General Order 45.X.B., I hereby attest that Michael W. Sobol and Tyler G. Newby concurred in this filing.