

1 MCKOOL SMITH PC  
 2 Gayle Rosenstein Klein  
 3 State Bar No. 237975  
 4 399 Park Avenue, Suite 3200  
 5 New York, New York 10022  
 Telephone: (212) 402-9400  
 Facsimile: (212) 402-9444  
 Email: gklein@mckoolsmith.com

6 Attorneys for SPECIALLY APPEARING  
 7 DEFENDANT Wi-LAN Inc.

8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10 SAN FRANCISCO DIVISION

11  
 12 ACER AMERICA CORP., APPLE INC.,  
 DELL INC., AND GATEWAY, INC.

Case No. C 08-CV-05624 (SI)

13 Plaintiffs,

**STIPULATION AND [PROPOSED]  
 ORDER TO EXTEND TIME TO  
 RESPOND TO AMENDED COMPLAINT**

14 v.

15 WI-LAN INC.,

16 Defendant.  
 17

18  
 19 Subject to its special appearance, specially appearing defendant Wi-LAN Inc., by and  
 20 through its counsel, requests that defendant's time to answer or otherwise plead to the complaint  
 21 be extended until a date ten (10) days after Judge James Ware rules on Wi-LAN Inc.'s Motion to  
 22 Dismiss for Lack of Personal Jurisdiction, Subject Matter Jurisdiction and Improper Venue, and  
 23 Motion to Transfer to First Filed Forum, filed January 15, 2009, in a related declaratory  
 24 judgment action styled *Intel Corp. v Wi-LAN Inc. et al*, 5:08-cv-4555 (N.D. Cal.).

25 This stipulated request is made on the grounds that the parties wish to avoid duplicative  
 26 motion practice. Judge Ware's anticipated ruling in the *Intel* case will give the parties substantial  
 27 guidance as to how to proceed and may eliminate the need for motion practice in the instant

28 STIPULATION AND [PROPOSED] ORDER TO EXTEND TIME TO RESPOND  
 TO AMENDED COMPLAINT  
 Case No. C 08-CV-05624 (SI)

MCKOOL SMITH  
 A PROFESSIONAL CORPORATION • ATTORNEYS  
 NEW YORK, N.Y.

1 action. Accordingly, it is in the interest of private and judicial economy to extend the time for  
2 Wi-LAN Inc. to answer or otherwise plead until a date ten (10) days after this Court's ruling in  
3 *Intel Corp. v. Wi-LAN Inc. et al.*

4 Defendant's time to respond to the complaint has been previously extended one time by  
5 Order dated February 6, 2009 (DI 18). Plaintiffs Acer America Corp., Apple Inc., Dell Inc., and  
6 Gateway Inc. stipulate to such extension and, therefore, do not oppose defendant's request.

7 So stipulated,

8  
9 Dated: February 20, 2009

MCKOOL SMITH PC

10 By: \_\_\_\_\_ /s/

11 Gayle Rosenstein Klein  
12 State Bar No. 237975  
13 MCKOOL SMITH PC  
14 399 Park Avenue, Suite 3200  
15 New York, New York 10022  
16 Telephone: (212) 402-9400  
17 Facsimile: (212) 402-9444  
18 Email: gklein@mckoolsmith.com

MCKOOL SMITH  
A PROFESSIONAL CORPORATION • ATTORNEYS  
NEW YORK, N. Y.

1 Dated: February 20, 2009

ORRICK HERRINGTON SUTCLIFF  
LLP

2  
3 By: \_\_\_\_\_ /s/

4 Michael C. Spillner  
5 State Bar No. 205785  
6 ORRICK HERRINGTON SUTCLIFF  
7 LLP  
8 1000 Marsh Road  
9 Menlo Park, California 94025  
10 Telephone: (650) 614-7400  
11 Facsimile: (650) 614-7401  
12 Email: [mspillner@orrick.com](mailto:mspillner@orrick.com)G.

13 G. Hopkins Guy, III  
14 State Bar No. 124811  
15 ORRICK HERRINGTON SUTCLIFF  
16 LLP  
17 1000 Marsh Road  
18 Menlo Park, California 94025  
19 Telephone: (650) 614-7400  
20 Facsimile: (650) 614-7401  
21 Email: [hopguy@orrick.com](mailto:hopguy@orrick.com)

22 Kai Tseng  
23 State Bar No. 193756  
24 ORRICK HERRINGTON SUTCLIFF  
25 LLP  
26 1000 Marsh Road  
27 Menlo Park, California 94025  
28 Telephone: (650) 614-7400  
Facsimile: (650) 614-7401  
Email: [ktseng@orrick.com](mailto:ktseng@orrick.com)

Attorney for Plaintiffs ACER  
AMERICA CORP. and GATEWAY,  
INC.

28 STIPULATION AND [PROPOSED] ORDER TO EXTEND TIME TO RESPOND  
TO AMENDED COMPLAINT  
Case No. C 08-CV-05624 (SI)

MCKOOL SMITH  
A PROFESSIONAL CORPORATION • ATTORNEYS  
NEW YORK, N.Y.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: February 20, 2009

MILBANK, TWEED, HADLEY & McCLOY  
LLP

By:                 /s/                  
 Mark C. Scarsi  
 State Bar No. 183926  
 MILBANK, TWEED, HADLEY &  
 MCCLOY LLP  
 601 South Figueroa Street  
 30th Floor  
 Los Angeles , CA 90017-5735  
 Telephone: (213) 892-4000  
 Facsimile: (213) 629-5063

Attorney for Plaintiff APPLE INC.

**MCKOOL SMITH**  
**A PROFESSIONAL CORPORATION • ATTORNEYS**  
**NEW YORK, N. Y.**

1 Dated: February 20, 2009

JONES DAY

2 By: \_\_\_\_\_ /s/

3 Arthur S. Beeman  
4 State Bar No. 237996  
5 JONES DAY  
6 555 California Street, 26<sup>th</sup> Floor  
7 San Francisco, California 94104  
8 Telephone: (415) 626-3939  
9 Facsimile: (415) 875-5700  
10 Email: [asbeeman@jonesday.com](mailto:asbeeman@jonesday.com)

11 Pamela K. Fulmer  
12 State Bar No. 154736  
13 JONES DAY  
14 555 California Street, 26<sup>th</sup> Floor  
15 San Francisco, California 94104  
16 Telephone: (415) 626-3939  
17 Facsimile: (415) 875-5700  
18 Email: [pkfulmer@jonesday.com](mailto:pkfulmer@jonesday.com)

19 Thomas R. Jackson (admitted *pro hac*  
20 *vice*)  
21 JONES DAY  
22 2727 North Harwood Street  
23 Dallas, Texas 75201-1515  
24 Telephone: (214) 220-3939  
25 Facsimile: (214) 969-5100  
26 Email: [trjackson@jonesday.com](mailto:trjackson@jonesday.com)

27 Daniel T. Conrad (admitted *pro hac*  
28 *vice*)  
JONES DAY  
2727 North Harwood Street  
Dallas, Texas 75201-1515  
Telephone: (214) 220-3939  
Facsimile: (214) 969-5100  
Email: [dtconrad@jonesday.com](mailto:dtconrad@jonesday.com)


Attorneys for Plaintiff DELL, INC.

STIPULATION AND [PROPOSED] ORDER TO EXTEND TIME TO RESPOND  
TO AMENDED COMPLAINT  
Case No. C 08-CV-05624 (SI)

MCKOOL SMITH  
A PROFESSIONAL CORPORATION • ATTORNEYS  
NEW YORK, N.Y.

1 Upon the parties' stipulation, and good cause appearing therefore, it is ORDERED that  
2 specially appearing defendant Wi-LAN Inc.'s time to answer or otherwise plead to the complaint  
3 herein is hereby extended until a date ten (10) days after this Court's ruling on Wi-LAN Inc.'s  
4 Motion to Dismiss for Lack of Personal Jurisdiction, Subject Matter Jurisdiction and Improper  
5 Venue and Motion to Transfer to First Filed Forum, filed January 15, 2009, in a related  
6 declaratory judgment action styled *Intel Corp. v Wi-LAN Inc. et al*, 5:08-cv-4555 (N.D. Cal.).

7  
8 Dated: 2/20/09  
9 \_\_\_\_\_, 2009

By:   
\_\_\_\_\_  
United States District Court Judge

MCKOOL SMITH  
A PROFESSIONAL CORPORATION • ATTORNEYS  
NEW YORK, N.Y.

CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2009, a true and correct copy of the foregoing STIPULATION AND [PROPOSED] ORDER TO EXTEND TIME TO RESPOND TO AMENDED COMPLAINT was filed electronically with the Clerk of the Court using CM/ECF System. Notice of this filing will be sent by operation of the Court’s electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court’s electronic filing system.

By:           /s/ Michael G. McManus            
Michael G. McManus

**MCKOOL SMITH  
A PROFESSIONAL CORPORATION • ATTORNEYS  
NEW YORK, N.Y.**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28