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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE OPTICAL DISK DRIVE PRODUCTS
ANTITRUST LITIGATION

No. 3:10-md-2143 RS

~~PROPOSED~~ ORDER GRANTING
INDIRECT PURCHASER PLAINTIFFS'
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENTS WITH PANASONIC,
NEC, SONY AND HLDS DEFENDANT
FAMILIES AND DISSEMINATION OF
CLASS NOTICE

DATE ACTION FILED: Oct. 27, 2009

This Document Relates to:
ALL INDIRECT PURCHASER ACTIONS

1 WHEREAS Indirect Purchaser Plaintiffs (“IPPs”), on behalf of themselves and of the
2 proposed stipulated settlement class (“Settlement Class”), and Defendants Panasonic Corporation
3 and Panasonic Corporation of North America (collectively, “Panasonic”); NEC Corporation
4 (“NEC”); Sony Corporation, Sony Optiarc Inc. (formerly known as Sony NEC Optiarc Inc.), and
5 Sony Optiarc America Inc. (formerly known as Sony NEC Optiarc America Inc.) (collectively,
6 “Sony”); and Hitachi-LG Data Storage, Inc., and Hitachi-LG Data Storage Korea, Inc. (collectively,
7 “HLDS), have agreed, subject to Court approval following notice to the Settlement Class and a
8 hearing, to settle the above-captioned matter (“Lawsuit”) upon the terms set forth in the IPP-
9 Panasonic Settlement Agreement, IPP-NEC Settlement Agreement , the IPP-Sony Settlement
10 Agreement and the IPP-HLDS Settlement Agreement (“Settlement Agreements”);

11 WHEREAS, this Court has reviewed and considered the Settlement Agreements entered into
12 among the parties, together with all exhibits thereto, the record in this case, and the briefs and
13 arguments of counsel;

14 WHEREAS, IPPs have applied for an order granting preliminary approval of the Settlement
15 Agreements;

16 WHEREAS, this Court preliminarily finds, for purposes of settlement only, that the action
17 meets all the prerequisites of Rule 23 of the Federal Rules of Civil Procedure;

18 WHEREAS, all defined terms contained herein shall have the same meanings as set forth in
19 the Settlement Agreements;

20 NOW, THEREFORE, IT IS HEREBY ORDERED:

21 1. The Court does hereby preliminarily approve the Settlement Agreements and the
22 settlement set forth therein, subject to further consideration of a Fairness Hearing.

23 2. A hearing (the “Fairness Hearing”) shall be held before this Court on December 8,
24 2016, at the United States District Court, located at San Francisco Courthouse, Courtroom 3 - 17th
25 Floor, 450 Golden Gate Avenue, San Francisco, CA 94102, to determine whether to approve
26 certification of the class for settlement purposes; whether the proposed settlement of the Lawsuit on
27 the terms and conditions provided for in the Stipulation is fair, reasonable and adequate to the
28 Settlement Classes and should be approved by the Court; whether a final judgment should be entered

1 herein; whether the proposed plan of distribution should be approved; and to determine the amount
2 of fees and expenses that should be awarded to Class Counsel. The Court may adjourn the Fairness
3 Hearing without further notice to the members of the Settlement Classes.

4 3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court preliminarily
5 certifies, for purposes of effectuating this settlement, a Settlement Class as follows:

6 All persons and entities who, as residents of Arizona, California,
7 District of Columbia, Florida, Hawaii, Kansas, Maine, Massachusetts,
8 Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New
9 Hampshire, New Mexico, New York, North Carolina, Oregon,
10 Tennessee, Utah, Vermont, West Virginia, and Wisconsin and during
11 the period April 2003 to December 2008, purchased new for their own
12 use and not for resale: (i) a computer with an internal ODD; (ii) a
stand-alone ODD designed for internal use in computers; or (iii) an
13 ODD designed to be attached externally to a computer. ODD refers to
14 a DVD-RW, DVD-ROM, or COMBO drive manufactured by one or
15 more Defendants or their coconspirators. Excluded from the class are
16 any purchases of Panasonic branded computers.

17 4. The Court designates Mike Bishop, Cindy Booze, Wanda Duryea, Matthew Ence,
18 Benjamin Faber, Barney Gooman, Jr., Matthew Hosking, James Ito-Adler, Chris Johnson, Susie Lim,
19 John McKee, Lisa Melegari, Gail Murphy, Benjamin Murray, Angela Pritchard, Ben Porter, Mike
20 Reilly, Sandra Steffen, Thomas Stenger, Kristina Tecce, Brian Tindall, Anbessa Tufa, and Kimberly
21 Wood as the class representatives for the Settlement Class.

22 5. The Court designates the following as Class Counsel for the Settlement Class: Hagens
23 Berman Sobol Shapiro LLP.

24 6. The Court preliminarily finds that, for purposes of effectuating this settlement only,
25 the Settlement Class meets the Rule 23 requirements for a settlement class.

26 7. The Court approves as to form and content the proposed forms of notice, including
27 the postcard notice, full notice, summary notice and banner notice, attached as Exhibits 2, 4-6,
28 respectively, to the Declaration of Alan Vasquez. The Court further finds that the proposed plan of
notice, and the proposed contents of these notices, meet the requirements of Federal Rule of Civil
Procedure 23 and due process, and are the best notice practicable under the circumstances and shall
constitute due and sufficient notice to all persons entitled thereto.

1 8. The Court appoints the firm of Gilardi & Co. LLC (“Settlement Administrator”) to
2 supervise and administer the notice procedure as well as the processing of claims as more fully set
3 forth below:

4 a. No later than August 20, 2016, the Settlement Administrator shall cause the
5 full versions of the Settlement Agreements, the Preliminary Approval Order, and the claim form, in
6 both an electronic fillable form and in a format that may be downloaded and/or printed, to be
7 published on a public website, located at www.OpticalDiskDriveAntitrust.com;

8 b. No later than August 20, 2016, the Settlement Administrator shall cause the
9 banner notice to be published, substantially in the form annexed as Exhibit 6 to the Declaration of
10 Alan Vasquez;

11 c. Beginning August 20, 2016, the Settlement Administrator shall provide e-mail
12 notice, substantially in the form annexed as Exhibit 4 to the Declaration of Alan Vasquez, to all
13 Settlement Class members whose e-mail addresses can be identified with reasonable effort;

14 d. Beginning August 20, 2016, the Settlement Administrator shall cause
15 summary notice to be published in the designated newspapers, substantially in the form annexed as
16 Exhibit 5 to the Declaration of Alan Vasquez;

17 9. All members of the Settlement Class shall be bound by all determinations and
18 judgments in the Lawsuit concerning the settlement, whether favorable or unfavorable to the
19 Settlement Class.

20 10. Class Counsel shall file their motion for attorneys’ fees, costs and service awards for
21 the class representatives, and all supporting documentation and papers, by October 5, 2016, or
22 fourteen days before the deadline for exclusions and objections.

23 11. Any person who desires to request exclusion from the Settlement Class shall do so by
24 October 19, 2016. All persons who submit valid and timely requests for exclusion shall have no
25 rights under the Settlement Agreements, shall not share in the distribution of the settlement funds,
26 and shall not be bound by the final judgments relating to the Panasonic, NEC, Sony and HLDS
27 defendants entered in the litigation.

1 12. Any member of the Settlement Class may enter an appearance in the litigation, at his
2 or her own expense, individually or through counsel of his or her own choice. If the member does not
3 enter an appearance, he or she will be represented by Class Counsel.

4 13. Any member of the Settlement Class may appear and show cause, if he or she has any
5 reason, why the proposed settlements should or should not be approved as fair, reasonable and
6 adequate; why a judgment should or should not be entered thereon; why the plan of distribution
7 should or should not be approved; or why attorneys' fees and expenses should or should not be
8 awarded to Class Counsel. All written objections and supporting papers must (a) clearly identify the
9 case name and number (*In Re Optical Disk Drive Products Antitrust Litigation*, Indirect Purchaser
10 Action, Case Number 3:10-md-2143-RS), (b) be submitted to the Court either by mailing them to the
11 Class Action Clerk, United States District Court for the Northern District of California, San
12 Francisco Courthouse, 450 Golden Gate Avenue, San Francisco, CA, and (c) be filed or postmarked
13 on or before October 19, 2016.

14 14. All papers in support of the settlement and responses by Class Counsel regarding
15 objections and exclusions shall be filed and served by November 2, 2016.

16 15. All reasonable expenses incurred in identifying and notifying members of the
17 Settlement Classes, as well as administering the Settlement Fund, shall be paid for as set forth in the
18 Settlement Agreements.

19 16. Neither the Settlement Agreements, nor any of their terms or provisions, nor any of
20 the negotiations or proceedings connected with them, shall be construed as an admission or
21 concession by plaintiffs or defendants, respectively, of the truth or falsity of any of the allegations in
22 the Lawsuit, or of any liability, fault or wrongdoing of any kind.

23 17. All members of the Settlement Class are temporarily barred and enjoined from
24 instituting or continuing the prosecution of any action asserting the claims released in the proposed
25 settlement, until the Court enters final judgment with respect to the fairness, reasonableness, and
26 adequacy of the settlement.

1 IT IS SO ORDERED.

2
3 DATED: 7/21/16


HONORABLE RICHARD SEEBORG
UNITED STATES DISTRICT COURT JUDGE

5 Submitted by:

6 Dated: June 28, 2016

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