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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
SETTLEMENT WITH DEFENDANTS
SAMSUNG ELECTRONICS CO., LTD.,
TOSHIBA CORPORATION AND
TOSHIBA SAMSUNG STORAGE
TECHNOLOGY CORPORATION AND
DISSEMINATION OF CLASS NOTICE

AS MODIFIED BY COURT

DATE ACTION FILED: Oct. 27, 2009

This Document Relates to:
ALL INDIRECT PURCHASER ACTIONS

1 Pursuant to Civil Local Rule 7-1(b), the unopposed motion of the Indirect Purchaser Plaintiffs
2 (“IPPs”), for preliminary approval of the settlement agreement they have reached with Samsung
3 Electronics Co., Ltd., Toshiba Corporation, and Toshiba Samsung Storage Technology Corporation
4 (collectively, the “Samsung and Toshiba Defendants”) is suitable for disposition without oral
5 argument, and the hearing set for September 27, 2018 is vacated.

6
7 WHEREAS, IPPs, on behalf of themselves and of the proposed stipulated settlement class
8 (Settlement Class), and the Samsung and Toshiba Defendants have agreed, subject to Court approval
9 following notice to the Settlement Class and a hearing, to settle the above-captioned matter (the
10 “Lawsuit”) upon the terms set forth in the parties’ Settlement Agreement (the “Settlement
11 Agreement”);

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

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

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

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

21 NOW, THEREFORE, IT IS HEREBY ORDERED:

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

24 2. A Fairness Hearing shall be held before this Court at the United States District Court,
25 Courtroom 3 - 17th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102, to determine
26 whether to approve certification of the class for settlement purposes; whether the proposed
27 settlement of the Lawsuit on the terms and conditions provided for in the Settlement Agreement is
28 fair, reasonable and adequate to the Settlement Classes and should be approved by the Court;

1 whether a final judgment should be entered herein; whether the proposed plan of distribution should
2 be approved; and to determine the amount of fees and expenses that should be awarded to Class
3 Counsel. The Court may adjourn the Fairness Hearing without further notice to the members of the
4 Settlement Classes. The Fairness Hearing shall be held 35 days from the IPPs' motion for final
5 approval of the settlement unless otherwise ordered by the Court.

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

8 All persons and entities who, as residents of Arizona, California,
9 District of Columbia, Florida, Hawaii, Kansas, Maine, Massachusetts,
10 Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New
11 Hampshire, New Mexico, New York, North Carolina, Oregon,
12 Tennessee, Utah, Vermont, West Virginia, and Wisconsin and during
13 the period April 2003 to December 2008, purchased new for their own
14 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
15 ODD designed to be attached externally to a computer. ODD refers to
16 a DVD-RW, DVD-ROM, or COMBO drive manufactured by one or
17 more Defendants or their coconspirators. Excluded from the class are
18 any purchases of Panasonic branded computers.

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

24 5. The Court designates Hagens Berman Sobol Shapiro LLP as Class Counsel for the
25 Settlement Class.

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

28 7. The Court approves as to form and content the proposed forms of notice, including
the full notice, summary notice and banner notice, described in the Declaration of Cameron R. Azari,
Esq. Regarding Implementation of Class Notice Plan ("Azari Declaration"). The Court further finds
that the proposed plan of notice and the proposed contents of these notices, meet the requirements of

1 Federal Rule of Civil Procedure 23 and due process, and are the best notice practicable under the
2 circumstances and shall constitute due and sufficient notice to all persons entitled thereto.

3 8. The Court appoints Hilsoft Notifications (Settlement Administrators) to supervise and
4 administer the notice procedures.

5 a. No later than 30 days from the signing of this order for preliminary approval,
6 the Settlement Administrators shall cause the full versions of the Settlement Agreement and the
7 Preliminary Approval Order, to be published on a public website, located at
8 www.dollarsfordiskdrives.com;

9 b. No later than 30 days from the signing of this order for preliminary approval,
10 the Settlement Administrators shall begin to provide e-mail notice, substantially in the form
11 described in paragraphs 18-20 of the Azari Declaration, to all Settlement Class members whose e-
12 mail addresses can be identified with reasonable effort;

13 c. No later than 30 days from the signing of this order for preliminary approval,
14 the Settlement Administrators shall cause the banner notice to be published;

15 d. No later than 30 days from the signing of this order for preliminary approval,
16 the Settlement Administrators shall submit the informational release to media outlets;

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. All members of the Settlement Class shall file claims no later than June 28, 2019 in
21 order to be eligible for compensation from this settlement.

22 11. Class Counsel shall file their motion for attorneys' fees, costs and service awards for
23 the class representatives, and all supporting documentation and papers, within 76 days of the signing
24 of this order for preliminary approval.

25 12. Any person who desires to request exclusion from the Settlement Class shall do so
26 within 90 days of the signing of this order for preliminary approval. All persons who submit valid
27 and timely requests for exclusion shall have no rights under the Settlement Agreement, shall not
28 share in the distribution of the settlement funds, and shall not be bound by the final judgments to be

1 entered against Samsung Electronics Co., Ltd., Toshiba Corporation, Toshiba Samsung Storage
2 Technology Corporation, and Toshiba Samsung Storage Technology Korea Corporation related to
3 this Lawsuit.

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

7 14. Any member of the Settlement Class may appear and show cause, if he or she has any
8 reason, why the proposed settlements should or should not be approved as fair, reasonable and
9 adequate; why a judgment should or should not be entered thereon; why the plan of distribution
10 should or should not be approved; or why attorneys' fees and expenses should or should not be
11 awarded to Class Counsel. All written objections and supporting papers must (a) clearly identify the
12 case name and number (*In Re Optical Disk Drive Products Antitrust Litigation*, Indirect Purchaser
13 Action, Case Number 3:10-md-2143-RS), (b) be submitted to the Court either by mailing them to the
14 Class Action Clerk, United States District Court for the Northern District of California, San
15 Francisco Courthouse, 450 Golden Gate Avenue, San Francisco, CA, and (c) be filed or postmarked
16 on or before 90 days from the signing of this order for preliminary approval.

17 15. All papers in support of the settlement and responses by Class Counsel regarding
18 objections and exclusions shall be filed and served 14 days after the deadline for exclusions and
19 objections.

20 16. All reasonable expenses incurred in identifying and notifying members of the
21 Settlement Classes, as well as administering the Settlement Fund, shall be paid for as set forth in the
22 Settlement Agreement.

23 17. Neither the Settlement Agreement, nor any of its terms or provisions, nor any of the
24 negotiations or proceedings connected with them, shall be construed as an admission or concession
25 by plaintiffs or defendants, respectively, of the truth or falsity of any of the allegations in the
26 Lawsuit, or of any liability, fault or wrongdoing of any kind.

27 18. All members of the Settlement Class are temporarily barred and enjoined from
28 instituting or continuing the prosecution of any action asserting the claims released in the proposed


1 Settlement Agreement, until the Court enters final judgment with respect to the fairness,
 2 reasonableness, and adequacy of the settlement.

3 19. As ordered above, these are the deadlines for the (1) notice campaign; (2) motion for
 4 attorneys' fees; (3) objections and requests for exclusion from the class; (4) motion for final
 5 approval; (5) fairness hearing; and (6) close of claims period:

Event	Deadline
Notice campaign to begin, including website, email, publication and Internet notice	30 days from preliminary approval order
Last day for motion for attorneys' fees, costs, expenses, and service awards	76 days from preliminary approval order
Last day for objections and requests for exclusion from the class	90 days from preliminary approval order
Last day for motion in support of final approval of settlement	14 days after objection deadline
Fairness Hearing	35 days from motion for final approval, unless otherwise ordered by the Court.
Close of Claims Period	June 28, 2019

13
 14 IT IS SO ORDERED.

15
 16 DATED: September 18, 2018

17 
 18 HONORABLE RICHARD SEEBORG
 19 UNITED STATES DISTRICT COURT JUDGE