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8 **ATTORNEYS FOR PLAINTIFF**  
9 **TOSHIBA AMERICA INFORMATION SYSTEMS, INC.**

10 (COMPLETE LIST OF ATTORNEYS APPEARS ON SIGNATURE PAGE)

11 **UNITED STATES DISTRICT COURT**  
12 **NORTHERN DISTRICT OF CALIFORNIA**

13  
14 INTEL CORPORATION,

15 Plaintiff,

16 v.

17 WI-LAN, INC., WI-LAN  
18 TECHNOLOGIES CORPORATION, WI-  
LAN TECHNOLOGIES, INC., and WI-  
19 LAN V-CHIP CORP.,

20 Defendants.

Case No. 5:08-CV-4555 JW

**SONY COMPUTER  
ENTERTAINMENT AMERICA INC.,  
SONY ELECTRONICS INC.,  
TOSHIBA AMERICA  
INFORMATION SYSTEMS, INC.,  
HEWLETT PACKARD, INC., AND  
LENOVO (UNITED STATES) INC.'S  
ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES  
SHOULD BE RELATED [Civ. L.R. 3-  
12]**

The Honorable James Ware

**[This document relates to N.D. Cal. Case  
No. 3:08-cv-05742 MHP]**

1 **TO THE COURT AND ALL PARTIES OF RECORD:**

2 **PLEASE TAKE NOTICE** that a related case, *Sony Computer Entertainment America*  
3 *Inc., et al. v. Wi-LAN, Inc.*, Case No. 3:08-CV-05742-MHP (the “*Sony Action*”), was filed on  
4 December 23, 2008, in the U.S. District Court for the Northern District of California. Pursuant to  
5 Civil Local Rules 3-12 and 7-11, the plaintiffs in that action (“*Plaintiffs*”) hereby submit this  
6 Administrative Motion to Consider Whether Cases Should Be Related because they believe that  
7 the *Sony Action* is related to this action, *Intel Corp. v. Wi-LAN, Inc., et al.*, Case No. 5:08-CV-  
8 4555 JW (the “*Intel Action*”).

9 This Court recently ordered the following two other actions related to the *Intel Action*:

- 10 • *Broadcom Corporation, et al. v. Wi-LAN, Inc.*, Case No. 5:08-CV-05543 JW (the  
11 “*Broadcom Action*”); and
- 12 • *Marvell Semiconductor, Inc. v. Wi-LAN, Inc.*, Case No. 5:08-CV-05544 JW (the  
13 “*Marvell Action*”).

14 (See Docket No 38). A coordinated Initial Case Management Conference is currently scheduled  
15 for March 16, 2009 in the *Intel*, *Broadcom*, and *Marvell* Actions and Plaintiffs propose that an  
16 Initial Case Management Conference in the *Sony Action* be coordinated with the other actions on  
17 the same date.<sup>1</sup>

18 This Administrative Motion is made because the *Intel*, *Broadcom*, *Marvell*, and *Sony*  
19 Actions each involve U.S. Patent No. 6,549,749 (the “’759 patent”) and the same declaratory  
20 judgment defendant, Wi-LAN, Inc. In particular, the plaintiffs in each of the actions seek  
21 declarations of invalidity, unenforceability, and non-infringement of the ’759 patent. (*Compare*  
22 Declaration of George Best filed concurrently herewith (“*Best Decl.*”), Exhs. A, B, and C, *with*  
23 D.)<sup>2</sup> Hence, all the cases concern “substantially the same parties, property, transaction or event”  
24

25 \_\_\_\_\_  
26 <sup>1</sup> The plaintiffs in the related actions have made a joint proposal on scheduling issues in the  
27 *Broadcom* action to globally coordinate and streamline the pending actions. See *Broadcom* Dkt.  
No. 15.

28 <sup>2</sup> The *Intel Action* also involves other patents in addition to the ’759 patent. (*Best Decl.*,  
Ex. A.) The claims in the complaint in the *Sony Action* are for non-infringement, invalidity and  
unenforceability of the ’759 patent. (*Best Decl.*, Exh. D.)

1 within the meaning of Civil Local Rule 3-12(a)(1).<sup>3</sup>

2 The parties have conferred but Plaintiffs have been unable to obtain Wi-LAN's stipulation  
3 that the *Sony* Action is related to the *Intel*, *Broadcom*, and *Marvell* Actions. (See Best Decl. at ¶  
4 6, Ex. E). Wi-LAN had previously agreed to stipulate that the actions are related within the  
5 meaning of Civil Local Rule 3-12. (See *id.*) Later, however, Wi-LAN retracted its agreement to  
6 stipulate—forcing Plaintiffs to proceed with this Motion—because it disagrees with Plaintiffs  
7 concerning certain case scheduling issues. (See *id.*). In an effort to globally coordinate  
8 scheduling issues among the related actions, and to streamline the number of filings and reduce  
9 any burden on the Court, Plaintiffs have filed a joint scheduling proposal for the Court's  
10 consideration, which is set forth in the opposition to Wi-LAN's Motion to Change Time in the  
11 *Broadcom* Action. (See *Broadcom* Dkt. Nos. 11 (Motion to Change Time); 15 (Plaintiffs'  
12 Opposition)). Thus far, despite Plaintiffs' efforts to coordinate the *Intel*, *Broadcom* and *Marvell*  
13 Actions with the *Sony* Action and the *Acer* Action (see n. 3 above), Wi-LAN has been unwilling  
14 to coordinate the *Intel*, *Broadcom*, and *Marvell* Actions with the *Sony* and *Acer* Actions, and has  
15 instead filed separate motions for extensions of time in the *Sony* and *Acer* Actions.<sup>4</sup> (*Acer* Dkt.  
16 No. 13; *Sony* Dkt. No. 41). Despite this, Plaintiffs will continue to attempt to coordinate and  
17 streamline any disputes in the pending actions. Plaintiffs believe that if the cases are related, the  
18 parties can enter a consolidated proposal on scheduling issues and avoid individual disputes in  
19 each of the related actions, thereby reducing the burden on the Court.

20 For the foregoing reasons, Plaintiffs request that the Court deem the *Sony* Action and the  
21 *Intel*, *Broadcom*, and *Marvell* Actions to be “related” within the meaning of Civil Local Rule 3-  
22 12.

23  
24 <sup>3</sup> The parties also are aware of another case involving the '759 patent: *Acer America*  
25 *Corporation, et al. v. Wi-LAN, Inc.*, Case No. 3:08-cv-05624-SI (the “*Acer* Action”). The *Acer*  
Action is also related to the *Intel*, *Broadcom*, *Marvell*, and *Sony* Actions.

26 <sup>4</sup> Plaintiffs disagree with the factual characterizations made in Wi-LAN's motions for  
27 extensions of time in the *Acer* and *Sony* Actions. In the interests of coordinating the pending  
28 motions and streamlining the issues, Plaintiffs will focus their oppositions to those motions on  
the joint scheduling proposal made in opposition to Wi-LAN's motion to change time in the  
*Broadcom* Action to globally coordinate the pending actions. See *Broadcom* Dkt. No. 15.

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Dated: February 2, 2009

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**PROOF OF SERVICE**

I am employed in the County of Santa Clara, State of California. I am over the age of 18 and not a party to the within action; my current business address is **975 Page Mill Road, Palo Alto, CA 94304.**

On February 2, 2009, I served the foregoing documents described as

**SONY COMPUTER ENTERTAINMENT AMERICA, INC., SONY ELECTRONICS, INC., TOSHIBA AMERICA INFORMATION SYSTEMS, INC., HEWLETT PACKARD, INC., AND LENOVO (UNITED STATES) INC.’S ADMINISTRATIVE MOTION TO CONSIDER WHETHER CASES SHOULD BE RELATED [CIV. L.R. 3-12]**

**[PROPOSED] ORDER GRANTING SONY COMPUTER ENTERTAINMENT AMERICA, INC., SONY ELECTRONICS, INC., TOSHIBA AMERICA INFORMATION SYSTEMS, INC., HEWLETT PACKARD, INC., AND LENOVO (UNITED STATES) INC.’S ADMINISTRATIVE MOTION TO CONSIDER WHETHER CASES SHOULD BE RELATED [CIV. L.R. 3-12]**

**DECLARATION OF GEORGE C. BEST IN SUPPORT OF SONY COMPUTER ENTERTAINMENT AMERICA, INC., SONY ELECTRONICS, INC., TOSHIBA AMERICA INFORMATION SYSTEMS, INC., HEWLETT PACKARD, INC., AND LENOVO (UNITED STATES) INC.’S ADMINISTRATIVE MOTION TO CONSIDER WHETHER CASES SHOULD BE RELATED [CIV. L.R. 3-12]**

X by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

BY MAIL

X I placed such envelope with postage thereon fully prepaid to be placed in the United States mail, at Palo Alto, California.

X I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Palo Alto, California.

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BY HAND DELIVERY. I caused said document(s) to be delivered **by hand** to addressee:

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X BY ELECTRONIC MAIL. 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, including:

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X Executed on February 2, 2009, at Palo Alto, California.

       (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

X (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

\_\_\_\_\_  
/s/ Carin Phillips