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

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

13 INTEL CORPORATION,
14 Plaintiff,

15 v.

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

Case No. 5:08-CV-4555 JW

**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]**

The Honorable James Ware

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

24 I, George C. Best, hereby declare as follows:

25 1. I am an attorney with Foley & Lardner LLP, counsel of record for Toshiba
26 America Information Systems, Inc. ("Toshiba") in *Sony Computer Entertainment America Inc. v.*
27 *Wi-LAN, Inc.*, Case No. 3:08-CV-05742-MHP (the "Sony Action"). I make this declaration based
28 on my own personal knowledge, and if called as a witness, I could and would competently testify

1 thereto.

2 2. On September 30, 2008, Intel Corporation (“Intel”) filed a Complaint for
3 Declaratory Judgment against Wi-LAN, Inc. (“Wi-LAN”) and other apparently related
4 defendants in the U.S. District Court for the Northern District of California, seeking a
5 declaratory judgment of invalidity, unenforceability, and non-infringement of U.S. Patent No.
6 6,549,759 (“the ’759 patent”) and declaratory judgments concerning other patents purportedly
7 owned by Wi-LAN. *Intel Corp. v. Wi-LAN, Inc.*, Case No. 5:08-CV-4555 JW (the “*Intel*
8 *Action*”). A true and correct copy of the Amended Complaint filed in the Intel Action (exhibits
9 excluded) is attached hereto as Exhibit A.

10 3. On December 10, 2008, Broadcom and Atheros Communications, Inc. filed a
11 Complaint for Declaratory Judgment against Wi-LAN in the U.S. District Court for the Northern
12 District of California, seeking a declaration of invalidity, unenforceability, and non-infringement
13 of the ’759 patent. *Broadcom Corp. v. Wi-LAN, Inc.*, Case No. 5:08-CV-05543 JW (the
14 “*Broadcom Action*”). The *Broadcom Action* was originally assigned to the Honorable Edward
15 M. Chen and designated Case No. 3:08-CV-05543 EMC. A true and correct copy of the
16 Complaint filed in the Broadcom Action is attached hereto as Exhibit B.

17 4. On December 10, 2008, Marvell Semiconductor, Inc. filed a Complaint for
18 Declaratory Judgment against Wi-LAN in the U.S. District Court for the Northern District of
19 California, seeking a declaration of invalidity, unenforceability, and non-infringement of the
20 ’759 patent. *Marvell Semiconductor, Inc. v. Wi-LAN, Inc.*, Case No. 5:08-CV-05544 JW (the
21 “*Marvell Action*”). The *Marvell Action* was assigned to the Honorable James Ware and
22 designated Case No. 5:08-cv-05544 JW. A true and correct copy of the Complaint filed in the
23 Marvell Action is attached hereto as Exhibit C.

24 5. On December 23, 2008, Sony Computer Entertainment America, Inc., Sony
25 Electronics, Inc., Toshiba America Information Systems, Inc., Hewlett-Packard Co., and Lenovo
26 (United States) Inc. filed the *Sony Action* in the U.S. District Court for the Northern District of
27 California, seeking a declaration of invalidity, unenforceability, and non-infringement of the
28 ’759 patent. The *Sony Action* was originally assigned to the Honorable Joseph C. Spero and was

1 later reassigned to the Honorable Marilyn Hall Patel and designated Case No. 3:08-CV-05624-
2 SI. A true and correct copy of the Complaint (exhibits excluded) filed in the *Sony* Action is
3 attached hereto as Exhibit D.

4 6. On January 27, 2009, on behalf of the plaintiffs in the *Intel, Broadcom, Marvell,*
5 *Acer,* and *Sony* Actions, Adam Alper wrote to Michael G. McManus, counsel for Wi-LAN, again
6 requesting that Wi-LAN stipulate that the *Acer* Action and *Intel* Action are “related” within the
7 meaning of Civil Local Rule 3-12(a) and attaching a proposed stipulation. Later on January 27,
8 2009, Mr. Cote wrote back stating that Wi-LAN agreed to give its approval. On January 29,
9 2009, Mr. Alper sent Mr. Cote an email attaching a “Stipulation & Joint Administrative Motion
10 To Relate Cases” for both the *Acer* and *Sony* Actions. Mr. Alper also made various proposals to
11 resolve the outstanding scheduling issues. On January 30, 2009, Mr. Cote responded to Mr.
12 Alper’s correspondence stating that Wi-LAN was retracting its agreement to stipulate to relate
13 the cases in view of differences over scheduling issues. Also on January 30, 2009, without
14 further meeting and conferring, Wi-LAN filed motions to extend time in both the *Acer* and *Sony*
15 actions. On February 2, 2009, in a further effort to globally coordinate the pending actions and
16 avoid further individual disputes over scheduling issues in the pending actions, Mr. Alper
17 responded to Mr. Cote's January 30, 2009 email on behalf of Plaintiffs. True and correct copies
18 of those emails are attached as Exhibit E.

19 Executed February 2, 2009 in Palo Alto, California. I declare under penalty of perjury
20 that the foregoing is true and correct.

21 Dated: February 2, 2009

22 By: _____

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