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11 *Counsel for Lead Plaintiff Roberto Cohen and*
12 *Proposed Lead Counsel for the Class*

Counsel for Lead Plaintiff New Jersey
Carpenters Pension and Annuity Funds and
Proposed Lead Counsel for the Class

14 **UNITED STATES DISTRICT COURT**
15 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

17 IN RE NVIDIA CORPORATION SECURITIES) MASTER FILE NUMBER:
18 LITIGATION) CIVIL ACTION NO. 08-CV-4260-JW
19)
20 This Document Relates To: All Actions) DATE: No Hearing Set (L.R. 7-9(d))
21)
22)
23)
24)

25 **STIPULATION PURSUANT TO THIS COURT'S NOVEMBER 20, 2009 ORDER APPROVING**
26 **SELECTION OF CO-LEAD COUNSEL FOR LEAD PLAINTIFF ROBERTO COHEN, LEAD**
27 **PLAINTIFF NEW JERSEY CARPENTERS PENSION AND ANNUITY FUNDS,**
28 **AND THE CLASS**

1 WHEREAS, on December 23, 2008, plaintiffs Roberto Cohen and the New Jersey Carpenters
2 Pension and Annuity Funds (collectively, “Lead Plaintiffs”) were appointed by this Court as Lead
3 Plaintiffs in the above-captioned Action (Dkt. # 91);

4 WHEREAS, on December 23, 2008, Milberg LLP and Girard Gibbs LLP were appointed by this
5 Court as Co-Lead Counsel in this Action (Dkt. # 91);

6 WHEREAS, on January 8, 2009, Lead Plaintiff Mr. Cohen requested leave to file a motion for
7 reconsideration of the Court’s December Order or, in the alternative, an application for an order
8 certifying an interlocutory appeal pursuant to 28 U.S.C. § 1292(b) (Dkt. # 94);

9 WHEREAS, on January 23, 2009, this Court denied the motion for reconsideration (Dkt. # 108);

10 WHEREAS, on February 6, 2009, Lead Plaintiff Mr. Cohen petitioned the United States Court of
11 Appeals for the Ninth Circuit for a writ of mandamus vacating this Court’s December 23, 2008, order to
12 the extent that it appointed Girard Gibbs LLP as co-lead counsel instead of Kahn Swick & Foti, LLC
13 (“KSF”),¹ Mr. Cohen’s chosen Lead Counsel for the Class (*In Re Roberto Cohen*, United States Court of
14 Appeals for the Ninth Circuit, No. 09-70378 (Dkt. # 1));

15 WHEREAS, in an opinion dated November 5, 2009 (the “Opinion”) the United States Court of
16 Appeals for the Ninth Circuit granted Mr. Cohen’s petition for writ of mandamus to the extent it sought
17 to vacate the District Court’s order appointing Girard Gibbs as Co-Lead Counsel (Dkt. # 123);

18 WHEREAS, the Ninth Circuit remanded to this Court “to consider, using appropriate deference,
19 whether KGS [now KSF], was an unreasonable choice of lead counsel under the circumstances;” (Dkt. #
20 123);

21 WHEREAS, by order dated November 20, 2009, “consistent with the Ninth Circuit’s remand,”
22 this Court “vacate[d] its appointment of counsel and invite[d] the parties to renew their respective
23 Motions to Appoint Co-Lead Counsel so that the Court can reevaluate Plaintiffs’ choice of counsel” and
24 set a briefing schedule and hearing date for any such motions by Lead Plaintiffs; (Dkt. # 128);

25 WHEREAS, the November 20, 2009 Order of the Court further held that “[t]he parties may moot

26 _____
27 ¹ At the time of the appointment, Kahn Swick & Foti, LLC was known as Kahn Gauthier Swick,
28 LLC.

1 that hearing by stipulating to appointment of counsel;” (Dkt. # 128);

2 WHEREAS, Counsel for Defendants have informed Counsel for Lead Plaintiffs that Defendants
3 intend to take no position on the appointment of Lead Counsel;

4 WHEREAS, the selection of KSF as Lead or Co-Lead Counsel has been court-approved in over
5 20 PSLRA cases in federal courts nationwide in the past four years;

6 WHEREAS, KSF’s resume is attached hereto as Exhibit A; and

7 WHEREAS, KSF is adequate, and not an unreasonable choice as Co-Lead Counsel in this
8 litigation;

9 IT IS HEREBY STIPULATED AND AGREED BY LEAD PLAINTIFFS PURSUANT TO THIS
10 COURT’S NOVEMBER 20, 2009 ORDER, that Co-Lead Counsel for the Class are:

11
12 KAHN SWICK & FOTI, LLC
13 650 Poydras Street, Ste. 2150
14 New Orleans, LA 70130
15 Telephone: (504) 455-1400
16 Facsimile: (504) 455-1498

Counsel for Lead Plaintiff Mr. Cohen and Co-Lead Counsel for the Class

17 -and-

18 MILBERG LLP
19 One Pennsylvania Plaza
20 New York, NY 10119
21 Telephone: (212) 594-5300
22 Facsimile: (212) 868-1229

*Counsel for Lead Plaintiffs New Jersey Carpenters Pension and Annuity Funds and Proposed
23 Co-Lead Counsel for the Class*

24 and that Liaison Counsel for the Class is:

25 GIRARD GIBBS LLP
26 601 California Street, 14th Floor
27 San Francisco, California 94108
28 Telephone: (415) 981-4800
Facsimile: (415) 981-4846

Lead Plaintiffs agree that Co-Lead Counsel shall have authority to speak for Lead Plaintiffs and
the Class in matters regarding pre-trial procedure, trial, and settlement negotiations and shall make all

1 work assignments in such manner as to facilitate the orderly and efficient prosecution of this litigation
2 and to avoid duplicative and unproductive effort. Lead Plaintiffs agree that Co-Lead Counsel shall be
3 responsible for coordinating all activities and appearances on behalf of Lead Plaintiffs for the Class and
4 for the dissemination of notices and orders of this Court. Lead Plaintiffs agree that no motion, request
5 for discovery, or other pre-trial or trial proceedings will be initiated or filed by any plaintiff except
6 through Co-Lead Counsel. Co-Lead Counsel shall be jointly responsible for allocating work and
7 distributing attorneys' fees, if any, among plaintiffs' attorneys in this case. Co-Lead Counsel shall have
8 the right to associate other counsel in the case at their discretion.

9 DATED: November 30, 2009

Respectfully submitted,

10 /s/ Kim E. Miller

/s/ Michelle Furukawa

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16 -and-

-and-

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/s/ Barry A. Weprin

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24 *Counsel for Lead Plaintiff Roberto Cohen*
25 *and Proposed Lead Counsel for the Class*

Counsel for Lead Plaintiff New Jersey
Carpenters Pension and Annuity Funds and
Proposed Lead Counsel for the Class

26 /s/ Daniel C. Girard

27 Daniel C. Girard (SBN 114826)
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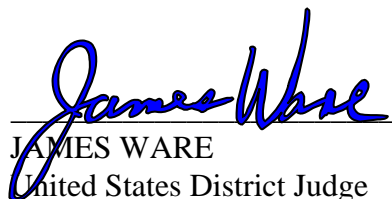
3 *Liaison Counsel*

4 *** **ORDER** ***

5
6 Upon review and reconsideration, the Court accepts Plaintiff's Cohen choice of counsel and thus
7 approves the parties' Stipulation re: Appointment of interim Co-Lead Class Counsel. The Court finds
8 the Depies Group's "Renewed Motion" for appointment of Lead Plaintiff is inappropriate since the
9 Court had rejected the Group's previous Motion (Docket Item No. 91) and the Group did not appeal
10 the Court's Order. The Ninth Circuit specifically addressed this issue in its Remand. (See Docket
11 Item No. 123.)

12
13 Accordingly, for good cause shown, the Court GRANTS the parties' Stipulation for approval of
14 selection of Co-Lead Counsel and DENIES the Depies Group's Renewed Motion.

15
16 Dated: December 8, 2009

17 
18 JAMES WARE
United States District Judge