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**FILED**  
 ALAMEDA COUNTY

MAR 07 2008  
 CLERK OF THE SUPERIOR COURT  
 By Pam Williams  
 Deputy

5 Attorneys for Plaintiff  
 6 RUSSELL BRIMER

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11 Attorneys for Defendants  
 12 EVGA CORPORATION; EVGA.COM CORP.

13  
 14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 15 **COUNTY OF ALAMEDA**  
 16 **UNLIMITED CIVIL JURISDICTION**

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 18  
 19 RUSSELL BRIMER,  
 20  
 Plaintiff,  
 21  
 v.  
 22 EVGA CORPORATION; EVGA.COM CORP.;  
 23 and DOES 1 through 150, inclusive,  
 24  
 Defendants.

Case No. BG-06-302805

~~PROPOSED~~ ORDER PURSUANT  
 TO TERMS OF STIPULATION AND  
 ORDER RE: CONSENT JUDGMENT

Date: March 7, 2008  
 Time: 9:30 a.m.  
 Dept.: 21  
 Judge: Honorable Jon S. Tigar

**RECEIVED**  
 JAN 23 2006

*[Handwritten signature]*

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In the above-entitled action, Plaintiff RUSSELL BRIMER and Defendants EVGA CORPORATION; EVGA.COM CORP. have agreed through their respective counsel that judgment be entered pursuant to the terms of the Consent Judgment entered into by the above-referenced parties and attached hereto as Exhibit A. After consideration of the papers submitted and the arguments presented, the Court finds that the settlement agreement set out in the attached Consent Judgment meets the criteria established by Senate Bill 471, in that:

1. The health hazard warning that is required by the Consent Judgment complies with Health & Safety Code section 25249.7 (as amended by Senate Bill 471);
2. The reimbursement of fees and costs to be paid pursuant to the parties' Consent Judgment is reasonable under California law; and
3. The civil penalty amount to be paid pursuant to the parties' Consent Judgment is reasonable.

IT IS HEREBY ORDERED that judgment be entered in this case, in accordance with the terms of the Consent Judgment, attached hereto as Exhibit A.

IT IS SO ORDERED.

Dated: 3/7/08

  
\_\_\_\_\_  
Hon. John S. Tigar  
JUDGE OF THE SUPERIOR COURT

EXHIBIT  
A

1 Christopher M. Martin, State Bar No. 186021  
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13 Attorneys for Defendant  
EVGA CORPORATION and EVGA.COM CORP.

14  
15  
16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 FOR THE COUNTY OF ALAMEDA COUNTY

18 UNLIMITED CIVIL JURISDICTION

19  
20 RUSSELL BRIMER,

21 Plaintiff,

22 v.

23  
24 EVGA CORPORATION; EVGA.COM CORP.;  
and DOES 1 through 150, inclusive,

25 Defendants.  
26  
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Case No. BG-06-302805

**STIPULATION AND [PROPOSED]  
ORDER RE: CONSENT JUDGMENT**

1 **1. INTRODUCTION**

2 **1.1 Parties**

3 This Consent Judgment is entered into by and between plaintiff Russell Brimer (Brimer or  
4 plaintiff) and defendants EVGA Corporation and EVGA.COM Corp., (collectively referred to as  
5 defendants or EVGA), with Brimer and EVGA referred to as the "parties."

6 **1.2 Plaintiff**

7 Brimer is an individual residing in Alameda County in the State of California who seeks to  
8 promote awareness of exposure to toxic chemicals and improve human health by reducing or  
9 eliminating hazardous substances contained in consumer products.

10 **1.3 Defendant**

11 Defendants each employ ten or more persons and are persons in the course of doing business  
12 for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health &  
13 Safety Code §§ 25249.6 *et seq.* (Proposition 65).

14 **1.4 General Allegations**

15 Plaintiff alleges that defendants have manufactured, distributed, and/or sold motherboards  
16 with solder containing lead in the State of California without the requisite health hazard warnings.  
17 Lead is a substance known to cause birth defects and other reproductive harm and is listed pursuant  
18 to Proposition 65. Lead shall be referred to hereinafter as the "listed chemical."

19 **1.5 Product Description**

20 The products that are covered by this Consent Judgment are defined as follows:  
21 motherboards with lead-containing solder, such as the *EVGA nForce4 STD Socket 939 Mainboard*  
22 *(# 8 19829 00973 2)*, and components utilized with motherboards that contain lead solder, a full and  
23 complete list attached hereto as Exhibit A. Examples of forms of solder include, but are not limited  
24 to, solder, solder balls, solder spheres, solder paste, wave solder, solder joints, die bumps, and  
25 flip-chip bumps. All such motherboards with lead-containing solder, and components utilized with  
26 such motherboards that contain lead solder, shall be referred to hereinafter as "products." Products  
27 that are sold individually and not as a component integrated into a computer system shall be  
28 referred to hereinafter as "non-integrated products."

1           **1.6    Notices of Violation**

2           On October 13, 2006, Brimer served defendants and various public enforcement agencies  
3 with a document entitled "60-Day Notice of Violation" (Notice) that provided defendants and such  
4 public enforcers with notice that alleged that defendants were in violation of California Health &  
5 Safety Code §25249.6 for failing to warn consumers, workers and others that the products that  
6 defendants sold exposed users in California to the listed chemical.

7           **1.7    Complaint**

8           On December 18, 2006, Brimer, who is acting in the interest of the general public in  
9 California, filed a complaint (Complaint or Action) in the Superior Court in and for the County of  
10 Alameda against EVGA CORPORATION and EVGA.COM CORP., and Does 1 through 150,  
11 *Brimer v. EVGA CORPORATION; EVGA.COM CORP.; and DOES 1 through 150, inclusive,*  
12 *Alameda Superior Court Case No. RG-06-302805*, alleging violations of California Health & Safety  
13 Code §25249.6, based on the alleged exposures to the listed chemical contained in the products  
14 defendants sold.

15           **1.8    No Admission**

16           Defendants deny the material factual and legal allegations contained in Brimer's Notice and  
17 Complaint and maintain that all products that they have sold and distributed in California have been  
18 and are in compliance with all laws. Nothing in this Consent Judgment shall be construed as an  
19 admission by defendants of any fact, finding, issue of law, or violation of law, nor shall compliance  
20 with this Consent Judgment constitute or be construed as an admission by defendants of any fact,  
21 finding, conclusion, issue of law, or violation of law, such being specifically denied by defendants.  
22 However, this Section shall not diminish or otherwise affect defendants' obligations, responsibilities  
23 and duties under this Consent Judgment.

24           **1.9    Consent to Jurisdiction**

25           For purposes of this Consent Judgment only, the parties stipulate that this Court has  
26 jurisdiction over defendants as to the allegations contained in the Complaint, that venue is proper in  
27 the County of Alameda and that this Court has jurisdiction to enter and enforce the provisions of  
28 this Consent Judgment.

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**1.10 Effective Date**

For purposes of this Consent Judgment, the term "effective date" shall mean October 10, 2007.

**2. INJUNCTIVE RELIEF: WARNINGS AND REFORMULATION**

**2.1 Product Warnings**

After the effective date, defendants shall not sell, ship, or offer to be shipped for sale in California products containing the listed chemical unless such products are sold or shipped with the clear and reasonable warning set out in this Section 2.1, comply with the reformulation standards set forth in Section 2.3 or are otherwise exempt pursuant to Section 2.2. Defendants represent and warrant that to the best of their knowledge and belief, they have not sold, shipped, or offered for sale in California products containing the listed chemical without a clear and reasonable warning set out in this Section 2.1 since October 20, 2006, a copy of which is attached hereto as Exhibit B, for which Brimer acknowledges is in compliance with California law. To the extent that Defendants do sell, ship, or offer to be shipped for sale in California any products containing the listed chemical, they must include clear and reasonable warning labels as set forth below.

Any warning issued for products pursuant to this Section 2.1 shall be prominently placed with such conspicuousness as compared with other words, statements, designs, or devices as to render it likely to be read and understood by an ordinary individual under customary conditions before purchase or, for products shipped directly to an individual in California or used in the workplace, before use. Any warning issued pursuant to this Section 2.1 shall be provided in a manner such that the consumer or user understands to which *specific* product the warning applies, so as to minimize if not eliminate the chance that an overwarning situation will arise.

Sections 2.1(a)-(b) describe defendants' options for satisfying their warning obligations depending, in part, on the manner of sale. The following warnings will be applicable when the product is sold either to consumers or in a business-to-business transaction:

**(a) Mail Order Catalog and Internet Sales of Non-Integrated Products.**

Defendants shall satisfy their warning obligations for non-integrated products that are sold by mail order catalog or from the Internet to California residents by providing a warning: (i) in the

1 mail order catalog issued by EVGA; (ii) on the EVGA website; and/or (iii) with the product when it  
2 is shipped from EVGA to an address in California. Warnings given in the mail order catalog or on  
3 the website shall identify the specific product to which the warning applies as further specified in  
4 Sections 2.1(b)(i), (ii), and/or (iii) as applicable:

5 (i) **Mail Order Catalog Warning.** Any warning provided in a mail  
6 order catalog issued by Defendants must be in the same type size or larger as the non-integrated  
7 product description text within the catalog. The following warning shall be provided on the same  
8 page and in the same location as the display and/or description of the non-integrated product:

9 **WARNING:** The materials used in this product contain lead, a  
10 chemical known to the State of California to  
11 cause birth defects and other reproductive harm.  
12 Please wash hands after handling and avoid inhalation of fumes if  
13 heating the solder on the product.

14 Where it is impracticable to provide the warning on the same page and in the same location  
15 as the display and/or description of the non-integrated product, defendants may utilize the  
16 designated symbol attached hereto as Exhibit C to cross reference the applicable warning and shall  
17 define the term "designated symbol" with the following language on the inside of the front cover of  
18 the catalog or on the same page as any order form for the non-integrated product(s):

19 **WARNING:** The materials used in certain products identified  
20 with this symbol ▼ and offered for sale in this  
21 catalog contain lead, a chemical known to the  
22 State of California to cause birth defects and  
23 other reproductive harm.

24 Please wash hands after handling and avoid inhalation of fumes if  
25 heating the solder on the product.

26 The designated symbol must appear on the same page and in close proximity to the display  
27 and/or description of the non-integrated product. On each page where the designated symbol  
28 appears, defendants must provide a header or footer directing the consumer to the warning language  
and definition of the designated symbol.

If defendants elect to provide warnings in the mail order catalog, then the warnings must be



1 included in all catalogs offering to sell one or more non-integrated products printed by EVGA after  
2 October 10, 2007.

3 (ii) **EVGA Internet Website Warning.** A warning may be given in  
4 conjunction with the sale of the non-integrated product via the EVGA website, provided it appears  
5 either: (a) on the same web page on which the non-integrated product is displayed; (b) on the same  
6 web page as the order form for the non-integrated product; (c) on the same page as the price for any  
7 non-integrated product; or (d) on one or more web pages displayed to a purchaser during the  
8 checkout process. The following warning statement shall be used and shall appear in any of the  
9 above instances adjacent to or immediately following the display, description, or price of the  
10 non-integrated product for which it is given in the same type size or larger as the product  
11 description text:

12 **WARNING:** The materials used in this product contain lead, a  
13 chemical known to the State of California to cause  
14 birth defects and other reproductive harm.

15 Please wash hands after handling and avoid  
16 inhalation of fumes if heating the solder on the  
17 product.

18 Alternatively, the designated symbol may appear adjacent to or immediately following the  
19 display, description, or price of the non-integrated product for which a warning is being given,  
20 provided that the following warning statement also appears elsewhere on the same web page:

21 **WARNING:** Products identified on this page with the  
22 following symbol use materials that contain lead,  
23 a chemical known to the State of California to  
24 cause birth defects and other reproductive harm:

25 ▼  
26 Please wash hands after handling and avoid inhalation of fumes if  
27 heating the solder on the product.

28 (b) **Sales to Known Integrators**

Where defendants sell products to individuals or entities they know to be in the business of  
integrating their products into computer systems for resale ("integrator(s)"), defendants shall  
provide the integrator with written instructions (via certified mail in the first quarter of each

1 calendar year) which instructs such integrators to attach sticker warnings, as specified in this  
2 Section, to any item which contains a product as an integrated component, prior to the resale of the  
3 integrated product. Defendants must receive and make available for Brimer's inspection, upon  
4 request, a written commitment from each integrator to whom defendants sell products directly that  
5 said integrator will post the warning stickers consistent with the requirements of Proposition 65.  
6 Defendants shall provide the integrators with stickers printed with the following warning to be  
7 attached to each item containing an integrated product:

8                   **WARNING:** The materials used in the motherboard utilized  
9                                   in this computer system contain lead, a  
10                                   chemical known to the State of California to  
11                                   cause birth defects and other reproductive harm.

12                                   Please wash hands after handling this motherboard and avoid  
13                                   inhalation of fumes if heating the solder on the motherboard.

14                   **Exceptions To Warning Requirements**

15                   The warning requirements set forth in Section 2.1 shall not apply to:

- 16                                   (i) Any product received in inventory before the effective date, subject to  
17                                   Section 2.5;
- 18                                   (ii) Reformulated products (as defined in Section 2.3 below); or
- 19                                   (iii) Any product in which the listed chemical is embedded in a manner  
20                                   that a consumer or worker would not come into contact with the listed  
21                                   chemical under any reasonably anticipated use.

22                   **2.2 Reformulation Standards**

23                   Reformulated products are defined as follows: any product containing less than or equal to  
24 one-tenth of one percent (0.1%) lead by weight in each solder material, including all forms of solder  
25 as identified in Section 1.5, unless that material is embedded in a manner that a consumer or worker  
26

1 ordinarily would not come into contact with the lead under any reasonably anticipated use.<sup>1</sup> The  
2 warnings required pursuant to Section 2.1 above shall not be required for reformulated products.

3 **2.3 Reformulation Representation**

4 Defendants represent and warrant that all motherboards offered for sale do not have the  
5 presence of lead solder since October 20, 2006.

6 **2.4 Public Information Commitment**

7 In a good faith effort to inform the public about the risk of exposure to lead in defendants'  
8 products sold before October 20, 2006, defendants hereby commit to provide the following warning  
9 on their main products web page for a period of three years:

10 **WARNING:** Certain desktop motherboards sold in California  
11 prior to October 20, 2006, contain lead solder. Lead  
12 is a chemical known to the State of California to  
13 cause birth defects and other reproductive harm.

14 Please wash hands after handling those motherboards that utilize lead  
15 solder and avoid inhalation of fumes if heating the solder on the  
16 product.

16 Immediately following the above warning, defendants shall provide a hyperlink titled "List of  
17 Motherboards Containing Lead Solder" which will link to a web page that defendants shall create  
18 and maintain for a period of three years. On that page, defendants shall provide the following  
19 warning:

20 **WARNING:** The following desktop motherboards sold in  
21 California prior to October 20, 2006, contain lead  
22 solder. Lead is a chemical known to the State of  
23 California to cause birth defects and other  
24 reproductive harm.

24 Please wash hands after handling these motherboards that utilize lead  
25 solder and avoid inhalation of fumes if heating the solder on these  
26 products.

27 <sup>1</sup>For purposes of this consent judgment, the lead by weight standard shall not apply to ingredient components  
28 of solder, such as glass and ceramic additives, but shall apply to the final solder materials used in the products.

1 Immediately following that warning, defendants shall list all products that contain lead solder which  
2 defendants sold in California before October 20, 2006. Defendants shall identify each product by  
3 name and model number.

4 3. **MONETARY PAYMENTS**

5 3.1 **Penalties Pursuant to Health & Safety Code §25249.7(b)**

6 Pursuant to Health & Safety Code §25249.7(b), the total civil penalty assessed shall be  
7 \$50,000, which shall be apportioned as follows:

8 (a) Defendants shall receive a credit of \$14,500 in light of their prompt  
9 cooperation with Brimer in resolving this matter and their commitment to sell  
10 only reformulated products in California;

11 (b) Defendants shall pay \$8,000 in civil penalties on or before October 15, 2007;

12 (c) Defendants shall pay \$12,500 in civil penalties on or before October 18,  
13 2007. This payment will be waived provided that defendants comply with  
14 the public information commitment on or before October 15, 2007, as set  
15 forth in Section 2.5 and submit a compliant web link to Brimer for his  
16 review; and

17 (d) Defendants shall pay the remaining \$15,000 in civil penalties on or before  
18 January 15, 2008. This payment will be waived provided that defendants  
19 submit a certification to Brimer on or before December 1, 2007, which sets  
20 forth, in sufficient detail, their efforts to remove lead from their motherboards  
21 not intended for use in desktop computers and certification of compliance.

22 All payments made pursuant to this Section 3.1 shall be payable to the "HIRST &  
23 CHANLER LLP in Trust For Russell Brimer" and shall be delivered to plaintiffs counsel at the  
24 following address:

25 HIRST & CHANLER LLP  
26 Attn: Proposition 65 Controller  
27 2560 Ninth Street  
28 Parker Plaza, Suite 214  
Berkeley, CA 94710-2565

1           **3.2    Apportionment of Penalties Received**

2           All penalty monies received shall be apportioned by Brimer in accordance with Health &  
3 Safety Code §25192, with 75% of these funds remitted by Brimer to the State of California's Office  
4 of Environmental Health Hazard Assessment and the remaining 25% of these penalty monies  
5 retained by Brimer as provided by Health & Safety Code §25249.12(d). Brimer shall bear all  
6 responsibility for apportioning and paying to the State of California the appropriate civil penalties  
7 paid in accordance with this Section.

8           **4.    REIMBURSEMENT OF FEES AND COSTS**

9           The parties acknowledge that Brimer and his counsel offered to resolve this dispute without  
10 reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving this fee  
11 issue to be resolved after the material terms of the agreement had been settled. Defendants then  
12 expressed a desire to resolve the fee and cost issue shortly after the other settlement terms had been  
13 finalized. The parties then reached an accord on the compensation due to Brimer and his counsel  
14 under the private attorney general doctrine codified at California Code of Civil Procedure §1021.5  
15 for all work performed through the Court's approval of this agreement. Under the private attorney  
16 general doctrine, defendants shall reimburse Brimer and his counsel for fees and costs incurred as a  
17 result of investigating, bringing this matter to defendants' attention, litigating, and negotiating a  
18 settlement in the public interest and seeking the Court's approval of the settlement agreement.  
19 Defendants shall pay Brimer and his counsel \$25,000 for all attorneys' fees, expert and investigation  
20 fees, litigation and related costs. The payment shall be made payable to HIRST & CHANLER LLP  
21 and shall be delivered on or before October 15, 2007, at the following address:

22           HIRST & CHANLER LLP  
23           Attn: Proposition 65 Controller  
24           2560 Ninth Street  
25           Parker Plaza, Suite 214  
26           Berkeley, CA 94710-2565

27           **5.    RELEASE OF ALL CLAIMS**

28           **5.1    Release of Defendants and Downstream Customers**

          In further consideration of the promises and agreements herein contained, and for the  
payments to be made pursuant to Sections 3 and 4, Brimer, on behalf of himself, his past and

1 current agents, representatives, attorneys, successors, and/or assignees, and in the interest of the  
2 general public, hereby waives all rights to institute or participate in, directly or indirectly, any form  
3 of legal action and releases all claims, including, without limitation, all actions, and causes of  
4 action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties,  
5 losses, or expenses (including, but not limited to, investigation fees, expert fees, and attorneys' fees)  
6 of any nature whatsoever, whether known or unknown, fixed or contingent (collectively "claims"),  
7 against defendants and each of their downstream wholesalers, licensors, licensees, auctioneers,  
8 retailers, franchisees, dealers, customers, owners, purchasers, users, parent companies, corporate  
9 affiliates, subsidiaries, and their respective officers, directors, attorneys, representatives,  
10 shareholders, agents, and employees, sister and parent entities, and original equipment  
11 manufacturers and distributors (collectively "releasees"). This release is limited to those claims that  
12 arise under Proposition 65, as such claims relate to defendants' alleged failure to warn about  
13 exposures to the listed chemical contained in the products.

14       The parties further understand and agree that this release shall not extend upstream to any  
15 third party entities that manufactured the products or any component parts thereof, or any third  
16 party distributors or suppliers who sold the products or any component parts thereof to defendants.  
17 This settlement does not release any downstream party (including integrators and retailers) that  
18 either caused exposure to lead from components not supplied by defendants or, as to the future,  
19 alters the product purchased from defendants in such a way as to cause it to violate the  
20 reformulation standards or fails to transmit the requisite warnings provided by defendants in  
21 paragraph 2.1 set forth in this Consent Judgment.

22       **5.2 Defendants' Release of Brimer**

23       Defendants waive any and all claims against Brimer, his attorneys, and other representatives  
24 for any and all actions taken or statements made (or those that could have been taken or made) by  
25 Brimer and his attorneys and other representatives, whether in the course of investigating claims or  
26 otherwise seeking enforcement of Proposition 65 against it in this matter, and/or with respect to the  
27 products.

28 ///

1 **6. COURT APPROVAL**

2 This Consent Judgment is not effective until it is approved and entered by the Court and  
3 shall be null and void if, for any reason, it is not approved and entered by the Court within one year  
4 after it has been fully executed by all parties, in which event any monies that have been provided to  
5 plaintiff or his counsel, pursuant to Section 3 and/or Section 4 above, shall be refunded within  
6 fifteen (15) days after receiving written notice from defendants that the one-year period has expired.

7 **7. SEVERABILITY**

8 If, subsequent to court approval of this Consent Judgment, any of the provisions of this  
9 Consent Judgment are held by a court to be unenforceable, the validity of the enforceable provisions  
10 remaining shall not be adversely affected.

11 **8. ATTORNEYS' FEES**

12 In the event that, after Court approval: (1) Defendants or any third party seeks modification  
13 of this Consent Judgment pursuant to Section 14 below; or (2) Brimer takes reasonable and  
14 necessary steps to enforce the terms of this Consent Judgment, Brimer shall be entitled to his  
15 reasonable attorneys' fees and costs pursuant to CCP §1021.5.

16 **9. GOVERNING LAW**

17 The terms of this Consent Judgment shall be governed by the laws of the State of California  
18 and apply within the State of California. In the event that Proposition 65 is repealed or is otherwise  
19 rendered inapplicable by reason of law generally, or as to the products, then defendants shall  
20 provide written notice to Brimer of any asserted change in the law, and shall have no further  
21 obligations pursuant to this Consent Judgment with respect to, and to the extent that, the products  
22 are so affected.

23 **10. NOTICES**

24 Unless specified herein, all correspondence and notices required to be provided pursuant to  
25 this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-class,  
26 (registered or certified mail) return receipt requested; or (ii) overnight courier on any party by the  
27 other party at the following addresses:

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To Defendants:

Karineh Khachatourian  
BUCHANAN INGERSOLL & ROONEY LLP  
333 Twin Dolphin Drive, Suite 700  
Redwood Shores, CA 94065-1418

To Brimer:

Proposition 65 Coordinator  
HIRST & CHANLER LLP  
2560 Ninth Street  
Parker Plaza, Suite 214  
Berkeley, CA 94710-2565

Any party, from time to time, may specify in writing to the other party a change of address to which all notices and other communications shall be sent.

**11. COUNTERPARTS; FACSIMILE SIGNATURES**

This Consent Judgment may be executed in counterparts and by facsimile, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

**12. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(F)**

Brimer agrees to comply with the reporting form requirements referenced in Health & Safety Code §25249.7(f).

**13. ADDITIONAL POST EXECUTION ACTIVITIES**

Brimer and defendants agree to mutually employ their best efforts to support the entry of this Agreement as a Consent Judgment and obtain approval of the Consent Judgment by the Court in a timely manner. The parties acknowledge that, pursuant to Health & Safety Code § 25249.7, a noticed motion is required to obtain judicial approval of this Consent Judgment. Accordingly, the parties agree to file a Motion to Approve the Agreement (motion). Defendants shall have no additional responsibility to plaintiff's counsel pursuant to Code of Civil Procedure §1021.5 or otherwise with regard to reimbursement of any fees and costs incurred with respect to the preparation and filing of the motion or with regard to plaintiff's counsel appearing for a hearing thereon.

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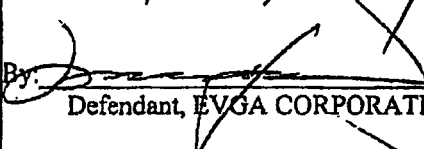
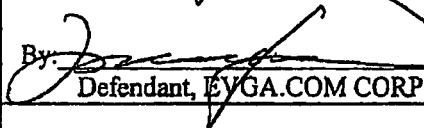
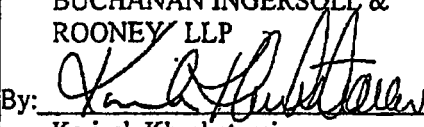


1 **14. MODIFICATION**

2 This Consent Judgment may be modified only: (1) by written agreement of the parties and  
3 upon entry of a modified Consent Judgment by the Court thereon; or (2) upon a successful motion  
4 of any party and entry of a modified Consent Judgment by the Court. The Attorney General shall be  
5 served with notice of any proposed modification to this Consent Judgment at least fifteen (15) days  
6 in advance of its consideration by the Court.

7 **15. AUTHORIZATION**

8 The undersigned are authorized to execute this Consent Judgment on behalf of their  
9 respective parties and have read, understood, and agree to all of the terms and conditions of this  
10 Consent Judgment.

<p>11 <b>AGREED TO:</b></p> <p>12 Date: _____</p> <p>13</p> <p>14 By: _____</p> <p>15 Plaintiff, RUSSELL BRIMER</p> <p>16</p> <p>17</p>	<p>11 <b>AGREED TO:</b></p> <p>12 Date: <u>OCT. 31, 2007</u></p> <p>13</p> <p>14 By: </p> <p>15 Defendant, EVGA CORPORATION</p> <p>16</p> <p>17 By: </p> <p>18 Defendant, EVGA.COM CORP.</p>
<p>18 <b>APPROVED AS TO FORM:</b></p> <p>19 Date: _____</p> <p>20 HIRST &amp; CHANLER LLP</p> <p>21</p> <p>22 By: _____</p> <p>23 Christopher M. Martin</p> <p>24 Attorneys for Plaintiff</p> <p>RUSSELL BRIMER</p>	<p>18 <b>APPROVED AS TO FORM:</b></p> <p>19 Date: <u>October 12, 2007</u></p> <p>20 BUCHANAN INGERSOLL &amp;</p> <p>21 ROONEY LLP</p> <p>22 By: </p> <p>23 Karineh Khachatourian</p> <p>24 Attorneys for Defendants</p> <p>EVGA CORPORATION AND</p> <p>EVGA.COM CORP.</p>

25 **IT IS SO ORDERED.**

26

27 Date: \_\_\_\_\_

28 \_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

14. **MODIFICATION**

This Consent Judgment may be modified only: (1) by written agreement of the parties and upon entry of a modified Consent Judgment by the Court thereon; or (2) upon a successful motion of any party and entry of a modified Consent Judgment by the Court. The Attorney General shall be served with notice of any proposed modification to this Consent Judgment at least fifteen (15) days in advance of its consideration by the Court.

15. **AUTHORIZATION**

The undersigned are authorized to execute this Consent Judgment on behalf of their respective parties and have read, understood, and agree to all of the terms and conditions of this Consent Judgment,

<p style="text-align: center;"><b>AGREED TO:</b></p> <p>Date: <u>10-15-07</u></p> <p>By: <u>[Signature]</u> Plaintiff, RUSSELL BRIMER</p>	<p style="text-align: center;"><b>AGREED TO:</b></p> <p>Date: _____</p> <p>By: _____ Defendant, EVGA CORPORATION</p> <p>By: _____ Defendant, EVGA.COM CORP.</p>
<p style="text-align: center;"><b>APPROVED AS TO FORM:</b></p> <p>Date: <u>10-9-07</u></p> <p>HIRST &amp; CHANLER LLP</p> <p>By: <u>[Signature]</u> Christopher M. Martin Attorneys for Plaintiff RUSSELL BRIMER</p>	<p style="text-align: center;"><b>APPROVED AS TO FORM:</b></p> <p>Date: _____</p> <p>BUCHANAN INGERSOLL &amp; ROONEY LLP</p> <p>By: _____ Karineh Khachatourian Attorneys for Defendants EVGA CORPORATION AND EVGA.COM CORP.</p>

IT IS SO ORDERED.

Date: \_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

Exhibit A to Brimer Settlement

Released Products

Part Number	Description
115-K8-NF31-AX	ATX,NF3 250GB,socket 754 800MHzFSB,
133-K8-NF41-AX	ATX,NF4 SLI,Socket 939,1000MHz FSB,
133-K8-NF41-BX	NForce 4 SLI Chipset AMD K8 939 Pro
133-K8-NF43-AX	ATX,NF4,Socket 939,1000MHz FSB, 8-c
131-K8-NF44-AX	uATX, nForce SLI M/B AMD 939 SPDIF
131-K8-NF44-BX	uATX, nForce 4 SLI M/B, AMD 939, SP
133-P4-NF51-AX	nForce4 SLI M/B, ATX, Intel 775
133-P4-NF51-BX	nForce4 SLI ATX, Intel 775 1066MHz
115-K8-NF33-AX	NF3 250GB ATX socket 754, 800MHz FS
122-CK-NF63-BR	nForce 680i SLI 775 Mainboard
122-CK-NF63-TR	nForce 680i SLI 775 Mainboard
122-CK-NF65-AR	nForce 650i SLI 775 Mainboard
122-CK-NF65-BR	nForce 650i SLI 775 MainBoard
122-CK-NF65-TR	nForce 650i SLI 775 MainBoard
122-CK-NF66-A1	nForce 650i Ultra 775 Mainboard
122-CK-NF66-B1	nForce 650i Ultra 775 Mainboard
122-CK-NF66-T1	nForce 650i Ultra 775 Mainboard
122-CK-NF67-A1	nForce 680i LT SLI 775 Mainboard
122-CK-NF67-AR	nForce 680i LT SLI 775 Mainboard
122-CK-NF67-B1	nForce 680i LT SLI 775 MainBoard
122-CK-NF67-BR	nForce 680i LT SLI 775 MainBoard
122-CK-NF67-T1	nForce 680i LT SLI 775 MainBoard
122-CK-NF68-A1	nForce 680i 775 Mainboard
122-CK-NF68-AR	nForce 680i 775 Mainboard
122-CK-NF68-B1	nForce 680i 775 Mainboard
122-CK-NF68-BR	nForce 680i 775 Mainboard
122-CK-NF68-T1	nForce 680i 775 Mainboard, RoHS
122-CK-NF68-TR	nForce 680i 775 Mainboard, RoHS
122-CK-NF69-A1	nForce 680i Black Pearl 775 Mainboard
122-M2-NF59-AX	122MB, nForce 590 AM2 Mainboard
122-M2-NF59-BX	122MB, nForce 590 AM2 Mainboard
122-M2-NF59-TR	122MB, nForce 590 AM2 Mainboard

**EXHIBIT B**

# WARNING

## California Proposition 65

**Prop 65 Warning:** The products distributed by EVGA may contain lead or other chemicals known to the State of California to cause cancer, birth defects, and other reproductive harm. Please wash hands after handling.

## Asunto 65 De California

**Appollo 65 que advierte:** El producto distribuido por EVGA contiene el plomo y otros quimicos. Sabidos en el Estado de California para causar el cancer, defecto de nacimiento, otras manos reproductivas. Por favor lavarse las manos despues de manejar el producto. Gracias

**EXHIBIT C**

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Exhibit C

The designated symbol that EVGA will use to identify products containing the listed chemical which are sold through its catalogs or on its website is:

