

1 Joseph R. Saveri (State Bar No. 130064)
Eric B. Fastiff (State Bar No. 182260)
2 Brendan Glackin (State Bar No. 199643)
Dean Harvey (State Bar No. 250298)
3 Anne B. Shaver (State Bar No. 255928)
Katherine M. Lehe (State Bar No. 273472)
4 LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP
275 Battery Street, 29th Floor
5 San Francisco, CA 94111-3339
Telephone: (415) 956-1000
6 Facsimile: (415) 956-1008

7 Attorneys for Individual and Representative Plaintiffs
Siddharth Hariharan, Brandon Marshall, Michael Devine,
8 Mark Fichtner, and Daniel Stover

9 [Additional Counsel Listed on Signature Page]

10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12
13 SIDDHARTH HARIHARAN,
individually and on behalf of all others
14 similarly situated,

15 Plaintiff,

16 v.

17 ADOBE SYSTEMS INC., *et al.*,

18 Defendants.

Case No. C 11-2509 SBA

**PLAINTIFFS' UNOPPOSED
ADMINISTRATIVE MOTION TO
TRANSFER ACTIONS TO THE SAN JOSE
DIVISION**

19 BRANDON MARSHALL, individually
and on behalf of all others similarly
20 situated,

21 Plaintiff,

22 v.

23 ADOBE SYSTEMS INC., *et al.*,

24 Defendants.

Case No. C 11-3538 SBA

25 [*Caption continued next page*]

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1 MICHAEL DEVINE, individually and on
2 behalf of all others similarly situated,

3 Plaintiff,

4 v.

5 ADOBE SYSTEMS INC., *et al.*,

6 Defendants.

Case No. C 11-3539 SBA

7 MARK FICHTNER, individually and on
8 behalf of all others similarly situated,

9 Plaintiff,

10 v.

11 ADOBE SYSTEMS INC., *et al.*,

12 Defendants.

Case No. C 11-3540 SBA

13 DANIEL STOVER, individually and on
14 behalf of all others similarly situated,

15 Plaintiff,

16 v.

17 ADOBE SYSTEMS INC., *et al.*,

18 Defendants.

Case No. C 11-3541 SBA

19 Pursuant to Civil Local Rule 7-11, all Plaintiffs in the above-captioned actions hereby file
20 this Unopposed Administrative Motion to Transfer Actions to the San Jose Division of the
21 Northern District of California. A Proposed Order is attached hereto as Exhibit A. The Parties
22 have met and conferred and Defendants have advised Plaintiffs that they do not oppose this
23 Administrative Motion. (*See* attached Declaration of Eric B. Fastiff in Support of Plaintiffs’
24 Unopposed Administrative Motion to Transfer Actions to the San Jose Division, at ¶ 2.) Pursuant
25 to Civil Local Rule 7-11(c), this Administrative Motion is submitted for immediate determination
26 without hearing.

27 **I. BACKGROUND**

28 After Plaintiff Siddharth Hariharan filed the initial action in Alameda County Superior
Court, Defendants removed it to the San Francisco/Oakland Division (Dkt. No. 1). Four cases
alleging the same conspiracy and asserting the same claims for relief against the same seven

1 Defendants were filed in Santa Clara Superior Court. Defendants subsequently removed those
 2 actions to the San Jose Division, and filed an Administrative Motion to Relate Cases to the first
 3 filed action (Dkt. No. 41). The Court ordered the cases related on July 27, 2011 (Dkt. No. 52).
 4 As a result, all five actions are now pending before this Court in the San Francisco/Oakland
 5 Division.¹

6 **II. ALL FIVE CASES AROSE IN SANTA CLARA COUNTY BECAUSE A**
 7 **SUBSTANTIAL PART OF THE EVENTS WHICH GIVE RISE TO PLAINTIFFS'**
 8 **CLAIMS OCCURRED THERE**

9 These actions are properly venued in the San Jose Division. Local Rule 3-2(c) states, “A
 10 civil action arises in the county in which a substantial part of the events or omissions which give
 11 rise to the claim occurred” As alleged in all five complaints, Defendants engaged in a
 12 conspiracy with each other to fix their employees’ compensation. Five of the seven Defendants
 13 are headquartered in Santa Clara County. The five complaints allege the other two Defendants,
 14 Pixar (headquartered in Alameda County) and Lucasfilm Ltd. (headquartered in San Francisco
 15 County), reached agreements with the Santa Clara County-based Defendants.

16 The Plaintiffs in the four related actions were all employed by a Defendant headquartered
 17 in Santa Clara County. Plaintiffs Michael Devine and Brandon Marshall worked as software
 18 engineers for Defendant Adobe Systems Inc., headquartered in San Jose. (*Devine* Compl. ¶ 21;
 19 *Marshall* Compl. ¶ 21.) Plaintiff Mark Fichtner worked as a software engineer for Defendant
 20 Intel Corp., headquartered in Santa Clara. (*Fichtner* Compl. ¶ 21.) Plaintiff Daniel Stover
 21 worked as a software engineer for Defendant Intuit Inc., headquartered in Mountain View.
 22 (*Stover* Compl. ¶ 21.)

23 In the fifth action, Plaintiff Siddharth Hariharan worked as a software engineer for
 24 Defendant Lucasfilm Ltd., headquartered in San Francisco County. (*Hariharan* Compl. ¶ 19.)
 25 Hariharan alleges he was harmed by all Defendants’ illegal agreements, including those in which
 26 the Santa Clara County-based Defendants participated. (*Hariharan* Compl. ¶¶ 19, 25, 48-85.)

27 ¹ The cases are: (1) *Hariharan v. Adobe Systems Inc., et al.*, Case No. 11-CV-2509-SBA;
 28 (2) *Marshall v. Adobe Systems Inc., et al.*, Case No. 11-CV-3538-SBA; (3) *Devine v. Adobe*
Systems Inc., et al., Case No. 11-CV-3539-SBA; (4) *Fichtner v. Adobe Systems Inc., et al.*,
 Case No. 11-CV-3540-SBA; and (5) *Stover v. Adobe Systems Inc., et al.*, Case No. 11-CV-3541-
 SBA.

1 By Defendants' estimates, the five Santa Clara County-based Defendants employed at
 2 least 98% of class members.² These five Defendants allegedly negotiated, finalized,
 3 implemented, and enforced agreements to eliminate competition with each other, within Santa
 4 Clara County. (*Devine* Compl. ¶¶ 61-96; *Marshall* Compl. ¶¶ 61-96; *Fichtner* Compl. ¶¶ 61-96;
 5 and *Stover* Compl. ¶¶ 61-96.)

6 Accordingly, "a substantial part of the events . . . which give rise to the claim occurred" in
 7 Santa Clara County. Civ. L.R. 3-2(c). Civil Local Rule 3-2(e) directs civil actions arising in
 8 Santa Clara County be assigned to the San Jose Division.

9 **III. THE COURT SHOULD ORDER INTRADISTRICT TRANSFER OF THE FIVE**
 10 **ACTIONS TO THE SAN JOSE DIVISION**

11 This Court should transfer the five cases to the San Jose Division. Pursuant to Civil Local
 12 Rule 3-2(h), "Whenever a Judge finds, upon the Judge's own motion or the motion of any party,
 13 that a civil action has not been assigned to the proper division within this district in accordance
 14 with this rule, or that the convenience of parties and witnesses and the interests of justice will be
 15 served by transferring the action to a different division within the district, the Judge may order
 16 such transfer, subject to the provisions of the Court's Assignment Plan."

17 Here, the vast majority of the percipient witnesses, relevant documents, and Defendants
 18 are located in Santa Clara County. Four of the five Plaintiffs worked for Defendants
 19 headquartered in Santa Clara County. At least 98% of class members worked for Defendants
 20 headquartered in Santa Clara County. Accordingly, transfer to the San Jose Division will best
 21 serve the "convenience of parties and witnesses" and will be in the "interests of justice." Civ.
 22 L.R. 3-2(h).

23 This Court has granted motions for transfer under similar circumstances. *See, e.g., Rivera*

24 _____
 25 ² In Defendants' notice of removal and supporting papers, Defendants use current employees as a
 26 surrogate for employees who worked from January 1, 2005 through January 1, 2010 (the class
 27 period). (*See* Notice of Removal ¶ 21, at p. 6, Dkt. No. 1.) Defendants estimate that they
 28 currently employ 83,300 individuals who would otherwise qualify as members of the class. (*Id.*)
 Of these, Defendants estimate that 82,283 work for defendants who maintain their principal
 places of business in Santa Clara County: Adobe Systems Inc., Apple Inc., Google Inc., Intel
 Corp., and Intuit Inc. (Declarations of Rhonda Hjort ¶ 3, Dkt. No. 4; Jack Gilmore ¶ 3, Dkt.
 No. 5; Joel Podolny ¶ 3, Dkt. No. 6; Tadhg Bourke ¶ 3, Dkt. No. 7; James M. Kennedy ¶ 3, Dkt.
 No. 8; Debbie R. Oldham-Auker ¶ 2, Dkt. No. 9; and Kumud Kokal ¶ 3, Dkt. No. 31-1.)

1 v. *Hewlett Packard Corp.*, Case No. 03-0939, 2003 WL 24029472, at *1-*2 (N.D. Cal. Apr. 22,
2 2003) (Armstrong, J.) (granting Hewlett Packard’s motion for transfer to the San Jose Division in
3 an unlawful termination case, because Hewlett Packard maintained its principal place of business
4 in Santa Clara County); *Baltazar v. Apple Inc.*, Case No. 10-3231, 2010 WL 4392740, at *1 (N.D.
5 Cal. Oct. 29, 2010) (White, J.) (granting Apple’s motion for transfer to the San Jose Division in a
6 product defect case regarding the iPad, where the design and development of the iPad occurred in
7 Santa Clara County, and the advertising and marketing plans were developed there as well).

8 As the substantial part of the events occurred in Santa Clara County, and because it will be
9 more convenient for the parties and witnesses and in the interests of justice for all five cases to
10 proceed before a Judge in the San Jose Division, Plaintiffs respectfully request that the Court
11 transfer all five actions to the San Jose Division.

12 Dated: August 2, 2011

Respectfully Submitted,

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14 LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP

15
16 By: /s/ Eric B. Fastiff
Eric B. Fastiff

17
18 Joseph R. Saveri (State Bar No. 130064)
Eric B. Fastiff (State Bar No. 182260)
19 Brendan P. Glackin (State Bar No. 199643)
Dean M. Harvey (State Bar No. 250298)
20 Anne B. Shaver (State Bar No. 255928)
Katherine M. Lehe (State Bar No. 273472)
21 LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP
275 Battery Street, 29th Floor
22 San Francisco, CA 94111-3339
Telephone: (415) 956-1000
23 Facsimile: (415) 956-1008

24 Eric L. Cramer
Shanon J. Carson
25 Sarah R. Schalman-Bergen
BERGER & MONTAGUE, P.C.
26 1622 Locust Street
27 Philadelphia, PA 19103
Telephone: (800) 424-6690
28 Facsimile: (215) 875-4604

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28

Linda P. Nussbaum
John D. Radice
GRANT & EISENHOFER P.A.
485 Lexington Avenue, 29th Floor
New York, NY 10017
Telephone: (646) 722-8500
Facsimile: (646) 722-8501

Attorneys for Individual and Representative Plaintiffs
Siddharth Hariharan, Brandon Marshall, Michael Devine,
Mark Fichtner, and Daniel Stover