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PALM, INC.

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN JOSE DIVISION
16

17 **In re: PALM TREO 600 and 650**
18 **LITIGATION**

19 **This Document Relates To All Actions**
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21
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Master File No.: C-05-03774 RMW

**FINAL JUDGMENT AND
ORDER APPROVING
SETTLEMENT AND
DISMISSING CLAIMS OF
SETTLEMENT CLASS
MEMBERS WITH PREJUDICE**

The Honorable Ronald M. Whyte

CO-LEAD CLASS COUNSEL

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1 This matter came on for hearing on May 23, 2008 at 9:00 a.m. The Court has considered
2 the Settlement Agreement and Release (“Agreement”), the record in the Action and the
3 arguments and authorities of counsel. Good cause appearing,

4 IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

5 1. The Court, for purposes of this Final Judgment and Order Approving Settlement
6 and Dismissing Claims of Settlement Class Members With Prejudice (“Judgment”), adopts the
7 terms and definitions set forth in the Agreement as modified herein.

8 2. The Court has jurisdiction over the subject matter of the Action, the Class
9 Representatives, the Settlement Class Members, and Defendant Palm Inc. (“Palm”).

10 3. The Court finds that the notice to the Settlement Class of the pendency of the
11 Action and of this settlement, as provided by the Agreement and by an Order of this Court,
12 constituted the best notice practicable under the circumstances to all persons and entities within
13 the definition of the Settlement Class, and fully complied with the requirements of due process
14 and of all applicable statutes and laws.

15 4. The Court approves the settlement as set forth in the Agreement and finds that the
16 settlement is in all respects fair, reasonable, adequate and just to the Settlement Class Members.

17 5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Settlement Class
18 as finally certified shall be defined as follows:

19 All United States residents who purchased in the United States a
20 new Treo 600 or Treo 650 smartphone for their own use and not for
21 resale. The Settlement Class excludes Palm; any entity in which
22 Palm has a controlling interest; Palm’s directors, officers, and
23 employees; Palm’s legal representatives, successors, and assigns;
any Judge to whom the Litigation is assigned and the members of
his or her immediate family; and all persons who timely and validly
request exclusion from the Settlement Class.

24 6. Pursuant to the Agreement, Palm shall do the following:

25 a. Settlement Administration

26 Palm shall, in good faith, administer the process of receiving, handling, processing and
27 paying claims, either directly or, at its sole option, through an Administrator. Class Counsel shall
28 have the right to inquire of Palm’s counsel respecting any aspect of implementation of the

1 settlement, including but not limited to the settlement administration process and the treatment of
2 individual Settlement Class Member's claims.

3 b. Cash Rebates for Settlement Class Members

4 Palm shall pay to any Settlement Class Member who submits a valid and timely Claim
5 Form, together with any required supporting documentation, a rebate on the purchase of a new
6 Palm smartphone, as follows:

- 7 (i) Settlement Class Members who purchased a new Treo 600 smartphone,
8 experienced two or more repairs or replacements (in lieu of repair) of that Treo
9 600 smartphone, submitted a valid and timely Claim Form, and purchased a
10 new Palm smartphone after September 30, 2005 but before the end of the
11 Redemption Period: \$75;
- 12 (ii) Settlement Class Members who purchased a new Treo 650 smartphone,
13 experienced two or more repairs or replacements (in lieu of repair) of that Treo
14 650 smartphone, submitted a valid and timely Claim Form, and purchased a
15 new Palm smartphone during the Redemption Period: \$50.

16 Palm shall have the right to reject claims deemed to be fraudulent, insufficient or
17 incomplete.

18 c. Limit of One Claim Per Treo 600 or Treo 650 Smartphone; Declaration of
19 Two or More Repairs or Replacements; Proof of One Repair

20 Settlement Class Members are limited to one claim for each Treo 600 or Treo 650
21 smartphone purchased. A Settlement Class Member seeking a rebate must provide a declaration
22 attesting, under penalty of perjury, that he or she experienced two or more repairs or replacements
23 in lieu of repair. Settlement Class Members must also provide Proof of Repair, as defined in the
24 Agreement, and documentation for at least one of the repairs or replacements experienced.

25 d. Invalid or Disputed Claims

26 In the event that a claim is rejected based upon the timing of the request or the
27 insufficiency of the information provided, Palm or the Administrator, as applicable, will notify
28 the claimant and co-lead class counsel of the rejection. Co-lead counsel and counsel for Palm
shall meet and confer regarding any disputed claims and will attempt in good faith to resolve such
disputes. In the event the Parties cannot resolve the dispute, the Parties shall request the
assistance of the Court.

1 e. Right of Repair

2 Each Settlement Class Member who was the original purchaser of a Treo 600 or Treo 650
3 smartphone from any source, and who submits a valid and timely Repair Form, is entitled to
4 obtain a repair of hardware defects on their Treo 600 or Treo 650.

5 This right of repair excludes: (a) physical damage to the surface of the product, including
6 cracks or scratches on the LCD touchscreen or outside casing; (b) damage caused by misuse,
7 neglect, improper installation or testing, unauthorized attempts to open, repair, or modify the
8 product, or any other cause beyond the range of the intended use; (c) damage caused by accident,
9 fire, power changes, other hazards, or acts of God; or (d) use of the product with any non- Palm
10 device or service if such device or service causes the problem. The right of repair shall not
11 extend to any third-party products, including software, included with Palm products.

12 If the warranty on the device has expired by the Effective Date, the right of repair is valid
13 for 120 days from the Effective Date. If the warranty on the device is still in effect on the
14 Effective Date, the right of repair will extend for 120 days beyond the expiration of the warranty.

15 ~~7. The Court adjudges that the payment of attorneys' fees and expenses in the total~~
16 ~~amount of \$ _____ to Class Counsel is fair, reasonable and adequate, and that said~~
17 ~~attorneys' fees and expenses shall be paid to Class Counsel pursuant to the terms of the~~
18 ~~Agreement. The Court further adjudges that payment of incentive awards in the amount of~~
19 ~~\$ _____ to Mario Palza, Charles Boulais, Nissa Gay, Paul Berliner, Trevor Loew, Stephanie~~
20 ~~Daniel, and Norm Sun is appropriate and that said incentive awards shall be paid pursuant to the~~
21 ~~terms of the Agreement. (RMW)~~

22 8. As of the Effective Date, the Class Representatives, plaintiffs Mario Palza, Charles
23 Boulais, Nissa Gay, Paul Berliner, Trevor Loew, Stephanie Daniel, and Norm Sun, and all
24 Settlement Class Members shall be forever barred from bringing or prosecuting, in any capacity,
25 any action or proceeding that involves or asserts any of the Released Claims against any Released
26 Person and shall conclusively be deemed to have released and forever discharged the Released
27 Persons from all Released Claims.

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- a. “Released Parties” means Palm and each of its predecessors, successors, parents, subsidiaries and affiliates, and each of their respective past or present directors, officers, employees, agents, insurers, shareholders, attorneys, advisors, consultants, representatives, partners, affiliates, parents, subsidiaries, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, related companies, and divisions, and each of their predecessors, successors, heirs, and assigns.
- b. “Released Claims” means any and all liabilities, claims, cross-claims, causes of action, rights, actions, suits, debts, liens, contracts, agreements, damages, restitution, disgorgement, costs, attorneys’ fees, losses, expenses, obligations or demands, of any kind whatsoever, whether in arbitration, administrative, or judicial proceedings, whether as individual claims or as claims asserted on a class basis or on behalf of the general public, whether known or unknown, suspected or unsuspected, threatened, asserted or unasserted, actual or contingent, liquidated or unliquidated, whether under federal statutory law, federal common law or federal regulation, or the statutory or common laws or regulations of any and all states or subdivisions, which are alleged or could have been alleged in the Litigation relating to any alleged product defects of the Treo 600 and Treo 650 smartphones, the performance of the Treo 600 and Treo 650 smartphones, and/or any alleged misrepresentation or failure to disclose with respect to the Treo 600 and Treo 650 smartphones, except for any claims raised in *Casaburi v. Palm, Inc.*, San Francisco Superior Court Case No. 04-435844. “Released Claims” shall not include personal injury claims.

9. The Class Representatives and all Settlement Class Members shall, as of the Effective Date, conclusively be deemed to have acknowledged that the Released Claims may include claims, rights, demands, causes of action, liabilities, or suits that are not known or suspected to exist as of the Effective Date. The Class Representatives and all Settlement Class Members nonetheless release all such Released Claims against the Released Persons. Further, as of the Effective Date, the Class Representatives and all Settlement Class Members shall be deemed to have waived any and all protections, rights and benefits of California Civil Code section 1542 and any comparable statutory or common law provision of any other jurisdiction.

10. The benefits and payments described in Paragraph 6 and attorney's fees and incentive awards as will be awarded by the court are the only consideration, fees, and expenses Palm or the Released Persons shall be obligated to give to the Class Representatives, the

1 Settlement Class Members, and Class Counsel in connection with the Agreement and the
2 payment of attorneys' fees and expenses. (*RMW*)

3 11. The Action and all claims asserted in the Action, and the six consolidated cases, as
4 described in the Agreement, are dismissed on the merits and with prejudice as to the Class
5 Representatives and all Settlement Class Members. Notwithstanding the foregoing, this
6 Judgment does not dismiss any of the individual claims asserted by any persons or entities who
7 have validly and timely requested exclusion from the Settlement Class. A list of persons and
8 entities who validly and timely requested exclusion is attached hereto as Exhibit A.
9 Notwithstanding the dismissal of the Action, Palm shall not claim and may not be awarded any
10 costs, attorneys' fees, or expenses.

11 12. Without affecting the finality of this Judgment in any way, the Court reserves
12 exclusive and continuing jurisdiction over the Action, the Class Representatives, the Settlement
13 Class Members, and Palm for the purposes of supervising the implementation, enforcement,
14 construction, and interpretation of the Agreement, the Court's Order Granting Preliminary
15 Approval dated January 7, 2008, and this Judgment.

16 13. The Agreement and this Judgment are not admissions of liability or fault by Palm
17 or the Released Persons, or a finding of the validity of any claims in the Action or of any
18 wrongdoing or violation of law by Palm or the Released Persons. The Agreement and settlement
19 are not a concession by the Parties and to the extent permitted by law, neither this Judgment, nor
20 any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall
21 be offered as evidence or received in evidence in any pending or future civil, criminal, or
22 administrative action or proceeding to establish any liability of, or admission by Palm, the
23 Released Persons, or any of them. Notwithstanding the foregoing, nothing in this Judgment shall
24 be interpreted to prohibit the use of this Judgment in a proceeding to consummate or enforce the
25 Agreement or Judgment, or to defend against the assertion of Released Claims in any other
26 proceeding, or as otherwise required by law.

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All other relief not expressly granted to the Settlement Class Members is denied.

Dated: 7/7, 2008

By: *Ronald M. Whyte*
The Honorable Ronald M. Whyte
United States District Court

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Exhibit A

Persons or Entities Requesting Exclusion From the Settlement Class

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Houston, TX 77062

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