

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WHATLEY KALLAS LLP
Alan M. Mansfield (SBN 125998)
amansfield@whatleykallas.com
1 Sansome Street, 35th Fl., PMB # 131
San Francisco, CA 94104
Tel: (415) 860-2503
Fax: (888) 331-9633

BURSOR & FISHER, P.A.
L. Timothy Fisher (SBN 191626)
ltfisher@bursor.com
Neal J. Deckant (admitted *pro hac vice*)
ndeckant@bursor.com
1990 North California Boulevard, Suite 940
Walnut Creek, CA 94596
Tel: (925) 300-4455
Fax: (925) 407-2700

Class Counsel

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

**IN RE NVIDIA GTX 970 GRAPHICS CHIP
LITIGATION**

CASE NO.: 15-cv-00760-PJH

**THIS DOCUMENT RELATES TO:
ALL ACTIONS**

**DECLARATION OF DON LE IN
SUPPORT OF PLAINTIFFS'
MOTION FOR AN AWARD OF
ATTORNEYS' FEES, COSTS AND
EXPENSES, AND INCENTIVE
AWARDS FOR THE CLASS
REPRESENTATIVES**

Date: December 7, 2016
Time: 9:00 a.m.
Courtroom 3 – 3rd Floor

Judge: Honorable Phyllis J. Hamilton

DECLARATION OF DON LE

I, Don Le, declare as follows:

1. I am a United States citizen and a Class Representative in the lawsuit entitled *Don Le, et. al. v. NVIDIA Corp.*, Case No. 37-2015-00006732-CU-BT-CTL, filed in the Superior Court of California, County of San Diego. I make this Declaration in support of Plaintiffs’ motion for the Court to award attorneys’ fees, costs, and expenses to Class Counsel, and award incentive awards to the Class Representatives. The statements made in this Declaration are based on my personal knowledge and, if called as a witness, I could and would testify thereto.

2. During the class period, I purchased two ASUS GX 970 graphics cards from Amazon.com, an online retail store. At the time of my purchase, I was not aware that the following representations were false and misleading: (i) that the GTX 970 purportedly operates with a full 4 GB of video RAM, (ii) that the GTX 970 purportedly has 64 render output processors, and (iii) that the GTX 970 purportedly has an L2 cache capacity of 2 MB. Had I known that these representations were false and misleading, I would not have paid for the GTX 970 at the price I did.

3. I assisted with my lawyers’ investigation by describing the events surrounding my purchases of the GTX 970. Specifically, I described *where* I purchased my GTX 970 cards, *when* I purchased them, *why* I purchased them, *how* I purchased them (*e.g.*, online versus retail, cash versus credit) and *what* representations I reviewed and relied upon when making my purchase. I also provided my attorneys with relevant documentation for their review.

4. I also discussed my use of the GTX 970 with my attorneys. Specifically, I described my personal experiences with my GTX 970, such as how it performed at various games and computing tasks. I also described any issues that I had encountered with my GTX 970 cards.

5. Based on these discussions, my attorneys prepared a Class Action Complaint. I carefully reviewed both the initial and amended complaint for accuracy and approved them before they were filed.

1 6. During the course of this litigation, I kept in regular contact with my lawyers.
2 Specifically, I conferred with them regularly by phone and e-mail to discuss the status of the
3 case. We also discussed case strategy, motions that were currently pending, and the prospects of
4 settlement. Furthermore, when appropriate, I informed my attorneys of additional facts for their
5 research and consideration.

6 7. My lawyers have kept me informed in regards to their efforts to resolve this matter.
7 I discussed the Settlement Agreement with them and gave my approval prior to signing it.

8 8. Had this case not settled, I was willing and prepared to take part in discovery. I
9 informed my lawyers that I was available to produce documents and take part in a deposition. I
10 was also prepared to testify at trial, if necessary.

11 9. Based on the interactions and my relationship with my attorneys, I believe they have
12 fairly and adequately represented me and the Class and will continue to do so.

13 10. Throughout this litigation, I understood that, as a Class Representative, I have an
14 obligation to protect the interests of other Class Members and not act just for my own personal
15 benefit. I do not believe that I have any conflicts with other Class Members. I have done my
16 best to protect the interests of other Class Members and will continue to fairly and adequately
17 represent the Class to the best of my ability.

18 11. I estimate that I spent a total of 25 hours working with my lawyers on this case.

19 The above statements are of my own personal knowledge, and I make such statements
20 under penalty of perjury under the laws of California and the United States of America.

21 Executed on this 21 day of October, 2016.

22
23 
24 _____
25 Don Le

26 DOYLE LOWTHER LLP
27 William J. Doyle (SBN 188069)
28 John A. Lowther (SBN 207000)
4400 NE 77th Ave, Suite 275
Vancouver, WA 98662
Tel: (360) 818-9320