

If You Purchased A GeForce GTX 970 Graphics Processing Unit Between September 1, 2014 To August 24, 2016, You May Be Entitled To Cash

A federal court authorized this Notice. This is not a solicitation from a lawyer.

- A proposed settlement has been reached in a class action lawsuit. The lawsuit claims that NVIDIA Corporation (“NVIDIA”), Gigabyte Global Business Corporation, G.B.T. Inc., ASUS Computer International, and EVGA Corporation (collectively, “Defendants”) sold GeForce GTX 970 graphics processing units to consumers based on inaccurate or misleading information regarding the GTX 970’s specifications, performance, and capabilities. Defendants deny these claims. The Court did not rule in favor of Plaintiffs or Defendants. Instead, the parties agreed to a proposed settlement to avoid the expense and risks of continuing the lawsuit.
- You are a class member if you are a resident of the United States of America who purchased a GTX 970 GPU in the U.S. from the Defendants, the AIC Partners (“AIC Partners” is defined in the Settlement Agreement as “Gigabyte, ASUS, EVGA, InnoVISION Multimedia Limited, Micro-Star International Co., Ltd., Manli Technology Group Ltd., Palit Microsystems Ltd., PC Partner Group Ltd., PNY Technologies Inc. and ZOTAC International (MCO) Ltd. or their subsidiaries, divisions or affiliates”) or their authorized retailers between September 1, 2014 to August 24, 2016 other than for purposes of resale or distribution.
- If you are eligible, you may submit a claim for \$30 cash for each qualifying GTX 970 device purchased in the U.S. between September 1, 2014 to August 24, 2016. There is no limit on the number of claims you can submit, subject to providing appropriate Proof of Purchase as described below.

Please read this Notice carefully and in its entirety. Your rights may be affected by the settlement of this Lawsuit, and you have a choice to make now about how to act:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
WHAT IS THIS?	A proposed settlement has been reached in a class action lawsuit. The lawsuit alleges that Defendants sold GeForce GTX 970 graphics processing units to consumers based on inaccurate or misleading information regarding the GTX 970’s specifications, performance, and capabilities.
SUBMIT A CLAIM POSTMARKED BY NOVEMBER 30, 2016	This is the only way to receive a Cash Payment. By submitting a claim, you will give up any rights to sue Defendants separately about the same legal claims in this lawsuit.
EXCLUDE YOURSELF FROM THE CLASS BY NOVEMBER 8, 2016	If you opt out of the settlement, you will not be eligible to receive a Cash Payment, but you will keep any rights to sue Defendants separately about the same claims alleged in this lawsuit.
OBJECT OR COMMENT BY NOVEMBER 8, 2016	You may write to the Court about why you do, or do not, like the settlement. You must remain in the class to comment in support of or in opposition to the settlement.
APPEAR IN THE LAWSUIT OR ATTEND A HEARING ON DECEMBER 7, 2016	You may ask to speak in Court about the fairness of the settlement. You may enter your appearance in Court through an attorney at your own cost if you so desire.
DO NOTHING	If you do nothing, you will receive no Cash Payment. You also give up your right to sue Defendants on your own regarding any claims that are part of the settlement.

- Your options – **and the deadlines to exercise them** – are further explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the settlement. The Cash Payments will be made available if the Court approves the settlement.

BASIC INFORMATION

1. Why did I get a Notice?

If you purchased one or more GTX 970 GPU devices in the U.S. from the Defendants, the AIC Partners (“AIC Partners” is defined in the Settlement Agreement as “Gigabyte, ASUS, EVGA, InnoVISION Multimedia Limited, Micro-Star International Co., Ltd., Manli Technology Group Ltd., Palit Microsystems Ltd., PC Partner Group Ltd., PNY Technologies Inc. and ZOTAC International (MCO) Ltd. or their subsidiaries, divisions or affiliates”) or their authorized retailers between September 1, 2014 to August 24, 2016 other than for purposes of resale or distribution, you have a right to know about a proposed settlement of a class action lawsuit and your options. If you have received a Notice in the mail or by e-mail, you have been identified from available records as a purchaser of a GTX 970 GPU. You also may have received a Notice because you requested more information after reading the Summary Notice.

The Court ordered that you be given Notice because you have a right to know about a proposed settlement of a class action lawsuit, and about your options. If the Court approves this settlement, and after objections and appeals are resolved, an Administrator appointed by the Court will oversee the Cash Payments. If you register for updates you can be informed of the progress of the settlement.

This Notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. The Court in charge of the case is the United States District Court for the Northern District of California, and the case is known as *In re NVIDIA GTX 970 Graphics Chip Litigation*, Case No. 15-CV-00760-PJH. The people who sued are called the Plaintiffs, and the companies they sued are called the Defendants.

2. What is this lawsuit about?

This lawsuit claimed that Defendants sold GeForce GTX 970 graphics processing units to consumers based on inaccurate or misleading information regarding the GTX 970’s specifications, performance, and capabilities.

Defendants deny that they did anything wrong. The Court has not made any ruling on the factual allegations in the lawsuit.

3. What is a class action and who is involved?

In a class action lawsuit, one or more people called “Class Representatives” sue on behalf of other people who have similar claims. The people together are a “Class” or “Class Members.” One court resolves the issues for everyone in the Class, except for those people who choose to exclude themselves from the Class.

4. Am I part of this Class?

If you fit into the following description, you are a Class Member:

All persons and entities resident in the United States of America who purchased a GTX 970 GPU in the United States of America from the Defendants, the AIC Partners or their authorized retailers between September 1, 2014 to August 24, 2016 other than for purposes of resale or distribution. Excluded from the Settlement Class are (1) employees of Defendants or the Add-In Card Partners (“AIC Partners”), including their current or former directors, officers and counsel; (2) any entity that

has a controlling interest in Defendants or the AIC Partners; (3) Defendants' and the AIC Partners' affiliates and subsidiaries; and (4) the judge to whom this case is assigned and any member of the judge's immediate family. For an explanation of some of the Definitions used in this Notice, you can refer to the Settlement Agreement, which can be accessed at www.gtx970settlement.com.

THE CLAIMS IN THE LAWSUIT

5. What does the lawsuit complain about?

Defendants manufacture, design and/or sell GTX 970 GPU devices throughout the United States. Plaintiffs allege that Defendants sold the GTX 970 GPU devices to consumers based on inaccurate or misleading information regarding the GTX 970's specifications, performance, and capabilities. Specifically, Plaintiffs allege that Defendants misrepresented that the GTX 970 devices: (1) operate with a full 4 gigabytes of video random access memory, (2) have 64 render output processors, and (3) have an L2 cache capacity of 2 megabytes, or omitted material facts to the contrary. You can read [Plaintiffs' Complaint](#) at www.gtx970settlement.com.

6. How do Defendants answer?

Defendants deny any wrongdoing and deny the Plaintiffs' allegations. You can read [Defendants' Response to the Complaint](#) at www.gtx970settlement.com.

7. Has the Court decided who is right?

The Court hasn't decided whether the Defendants or the Plaintiffs are correct. Instead, the parties agreed to a proposed settlement.

YOUR LEGAL RIGHTS AND OPTIONS

You have to decide now whether to submit a claim, do nothing at all, comment on or object to the proposed settlement, or ask to be excluded from the proposed settlement.

8. What does the proposed settlement provide if I submit a claim?

If you are eligible, you may submit a claim for \$30 cash for each qualifying GTX 970 GPU device purchased in the U.S. between September 1, 2014 and August 24, 2016. There is no limit to the number of claims you can submit as long as you submit the required proof of purchase.

When submitting a claim, you will be required to provide a verification code or proof of purchase. If you were sent a direct notice of the settlement, the verification code was included on the notice. If you were not, qualifying proofs of purchase include a sales receipt, a credit card receipt or statement, a shipping manifest, a purchase order, an e-mail confirmation, or other similar documentation reflecting a qualifying purchase and who you purchased the GPU from. Alternatively, you may submit a Product Identification Number, which is the product identification number, serial number, stock keeping unit ("SKU"), device identification number, part number, or other letters and/or digits embedded on the box, back, or bottom of each GPU that comprises its identification number, or that can be located by checking the settings for the GPU via software.

Please visit www.gtx970settlement.com for more information about qualifying proofs of purchase, including step-by-step instructions on how to retrieve your Product Identification Number.

9. How do I submit a Claim Form?

Class Members who wish to receive a Cash Payment must submit a Claim Form.

You can download a Claim Form at www.gtx970settlement.com, or call 1-844-312-5253 and ask that a copy be sent to you. Read the instructions carefully, fill out the form, and submit it by e-mail or facsimile on or before 11:59 p.m. Pacific Time on November 30, 2016. Alternatively, you may also submit your Claim Form by mailing it to the following address: Nvidia GTX 970 Graphics Chip Settlement Administrator, P.O. Box 43431, Providence, RI 02940-3431. It must be postmarked no later than November 30, 2016.

If you received a Notice in the mail or by e-mail, a link or directions on how to access the Claim Form is included.

10. What if I didn't get a Claim Form in the mail or by e-mail?

If you didn't receive a Claim Form in the mail or by e-mail, you can obtain the Claim Form in one of three ways:

- (1) **By Phone:** Call toll-free, 1-844-312-5253.
- (2) **By Mail:** Write to Nvidia GTX 970 Graphics Chip Settlement Administrator, P.O. Box 43431, Providence, RI 02940-3431. Be sure to include your name and mailing address.
- (3) **Online:** You can download the Claim Form at www.gtx970settlement.com.

11. What happens if I do nothing at all?

By doing nothing, you are electing to stay in the Class but will not receive a Cash Payment.

Keep in mind that if you do nothing now, you will not be able to separately sue, or continue to sue, Defendants as part of any other lawsuit for the same claims that are the subject of this lawsuit. You will also be legally bound by all of the Orders the Court and judgments the Court issues in this action. You must exclude yourself to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants about the subject matter of this lawsuit ever again.

12. Why would I ask to be excluded?

If you exclude yourself from the Class – which is sometimes called “opting out” of the Class – you won't get a Cash Payment from the proposed settlement. However, you may then be able to separately sue or continue to sue Defendants for the legal claims that are the subject of this lawsuit. If you exclude yourself, you will not be legally bound by the Court's judgments in this proposed settlement.

If you bring your own lawsuit against Defendants after you exclude yourself, you will have to hire and pay your own lawyer for that lawsuit, and you will have to prove your claims. If you exclude yourself so you can start or continue your own lawsuit against Defendants, you should talk to your own lawyer soon, because your claims may be subject to a filing deadline called a statute of limitations.

13. How do I exclude myself from the Class?

To exclude yourself from the Class, you must send a written request for exclusion *that is postmarked no later than November 8, 2016*, to:

Nvidia GTX 970 Graphics Chip Settlement Administrator
P.O. Box 43431
Providence, RI 02940-3431

Questions? Visit www.gtx970settlement.com or contact Class Counsel at info@bursor.com

Your request for exclusion **must** be signed by you and contain, in writing: (1) the name of this lawsuit, “*In re NVIDIA GTX 970 Graphics Chip Litigation*, Case No. 15-CV-00760-PJH”; (2) your full name and address, telephone number, GTX 970 model and approximate date of purchase; (3) a clear statement of your intention such as “I wish to be excluded from the Class and do not wish to participate in the settlement.”

14. How do I tell the Court I don’t like the proposed settlement?

You can ask the Court to deny approval by filing an objection with the Court. You can’t ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object. If you believe the settlement is unsatisfactory, you may hire your own lawyer to appear in Court for you if you wish; however, if you do, you will be responsible for paying that lawyer on your behalf. The Court will consider your views. By objecting, you understand that you may be subject to discovery.

To object, you must file with the Clerk of the Court a document signed by you or your counsel that contains all the following:

- Your name, current address, telephone number, and your lawyer’s name and address if you are objecting through counsel;
- Clearly identify the case name and number of the lawsuit, *In re NVIDIA GTX 970 Graphics Chip Litigation*, Case No. 15-CV-00760-PJH;
- A statement of your objections and a detailed description of the grounds for each objection you make;
- The name of the manufacturer and Production Identification Number for your GTX 970 GPU Unit;
- All the papers you intend to present to the Court in opposition to the Settlement Agreement.
- Your objection must be signed, mailed, and filed on or before November 8, 2016 with the Court at:

Clerk of the Court
United States District Court
Northern District of California
1301 Clay Street, Suite 400S
Oakland, CA 94612

Your objection can also be filed in person at any location of the United States District Court for the Northern District of California.

15. What’s the difference between objecting and excluding?

Objecting is telling the Court you don’t like something about the settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court you don’t want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

16. Can I appear or speak in this lawsuit and proposed settlement?

As long as you do not exclude yourself, you can (but do not have to) participate and speak for yourself in this lawsuit and proposed settlement. This is called making an appearance. You can also have your own lawyer speak for you, but you will have to pay for the lawyer yourself.

17. How can I appear in this lawsuit?

If you want yourself or your own lawyer (instead of Class Counsel) to participate or speak for you in this lawsuit, you must file with the Court a “Notice of Appearance.” The Notice of Appearance must contain the title of the lawsuit, a statement that you wish to appear at the final approval hearing, and the signature of you or your lawyer.

Your Notice of Appearance can also state that you or your lawyer would like to speak at the Court’s final approval hearing on the proposed settlement. If you submit an objection (see question 14 above) and would like to speak about the objection at the Court’s final approval hearing, both your Notice of Appearance and your objection should be included in that information.

Your Notice of Appearance must be signed, mailed, and *postmarked by November 8, 2016* to the Court at:

Clerk of the Court
United States District Court
Northern District of California
1301 Clay Street, Suite 400S
Oakland, CA 94612

THE LAWYERS REPRESENTING YOU

18. Do I have a lawyer in this case?

The law firms of Bursor & Fisher, P.A. and Whatley Kallas LLP (collectively, “Class Counsel”) represent you and the other Class Members. You will not be charged for these lawyers. More information about Bursor & Fisher, P.A. and Whatley Kallas LLP, their practice, and the firm’s lawyers are available at www.bursor.com and www.whatleykallas.com.

19. Should I get my own lawyer?

If you choose to remain in the Class, you do not need to hire your own lawyer because Class Counsel are working on your behalf. But, if you want your own lawyer, you will be responsible for paying that lawyer.

20. How will the lawyers and the class representative be paid?

From the inception of the litigation in February 2015 to the present, Class Counsel have not received any payment for their services in prosecuting the case, nor have they been reimbursed for any out-of-pocket expenses they have incurred. When they ask the Court to approve the settlement, Class Counsel will also make a motion to the Court for an award of attorneys’ fees and expenses of up to \$1.3 million. The amount of attorneys’ fees and expenses is in addition to and separate from all other cash available to Settlement Class Members who submit a Claim Form, and, by the time this settlement is ruled upon, will be approximately counsel’s collective lodestar (their standard hourly rates multiplied by the hours they have expended in litigating this lawsuit). The Court may award less than that. No matter what the Court decides with regard to the requested attorneys’ fees and expenses, Settlement Class Members will never have to pay anything toward the fees or expenses of Class Counsel.

When Class Counsel ask the Court to approve the settlement, they will also ask for payment of up to \$25,000 collectively for some or all of the 24 named Class Representatives in the lawsuit and a related lawsuit named *Don Le v. NVIDIA Corp.* that was filed in San Diego County Superior Court. The payments to the named Class Representatives will be based on the hours they expended acting as Class Representatives. No conditions have been placed on requesting or obtaining such awards. These amounts are in addition to and separate from all other cash available to the Settlement Class Members. Settlement Class Members will never have to pay anything toward the payments to the Class Representatives.

THE COURT'S FAIRNESS HEARING

On December 7, 2016, the Court will hold a hearing to decide whether to approve the settlement. You may attend and you may ask to speak, but you don't have to attend or speak.

21. When and where will the Court decide whether to approve the settlement?

The Court will hold a final approval hearing at 9:00 a.m. on December 7, 2016, at the United States District Court for the Northern District of California, 1301 Clay Street, Oakland, CA 94612, Courtroom 3, 3rd Floor. This date may change without further notice to the class. Check the settlement website at www.gtx970settlement.com or the Court's PACER docket to confirm that the date has not been changed. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are timely objections that have been properly submitted, the Court will consider them. The Court will listen to people who have asked to speak at the hearing. The Court will also consider Class Counsel's request for an award of attorneys' fees, reimbursement of expenses and Class Representative payments. After the hearing, the Court will decide whether to approve the settlement, and whether to grant Class Counsel's request for attorneys' fees, expenses and Class Representative payments. We do not know how long these decisions will take.

22. Do I have to come to the hearing?

No. Class Counsel is working on your behalf and will answer any questions the Court may have. You are welcome to attend the hearing at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you served your written objection on time and as set forth in Question 14 above, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

23. May I speak at the hearing?

You may ask the Court for permission to speak at the final approval hearing. To do so, you must follow the steps listed in number 16 and 17 above. You cannot speak at the hearing if you excluded yourself.

FINAL SETTLEMENT APPROVAL

24. What is the effect of final settlement approval?

If the settlement is not approved, the case will proceed as if no settlement had been attempted. There can be no assurance that if the settlement is not approved and litigation resumes, the Class will recover more than is provided for under the settlement, or will recover anything.

If the Court grants final approval of the settlement, all members of the Settlement Class will release and forever discharge any and all claims or causes of action that were or could have been asserted in the Litigation against the Released Persons to the extent they arise out of or relate to the marketing, advertising, promotion, sale, performance, capabilities or specifications of the GTX 970 GPU, based on the claims asserted in Plaintiffs' Second Amended Consolidated Class Action Complaint relating to the GTX 970. The text of the release, as it appears in the Settlement Agreement, also provides as follows:

Questions? Visit www.gtx970settlement.com or contact Class Counsel at info@bursor.com

Upon the Effective Date, each of the Released Persons shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished and discharged Plaintiffs, including all members of the Settlement Class who have not validly opted out of the Settlement pursuant to Section 9 below, and Class Counsel and all other Plaintiffs' Counsel for all claims relating to or arising out of or connected with the institution, prosecution, assertion, settlement or resolution of the Litigation and/or the Released Claims. By releasing and forever discharging all such claims, whether known or unknown, the Released Persons expressly, by operation of the Final Judgment, waive any and all provisions, rights and benefits conferred by California Civil Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR,

and any other law of any jurisdiction (domestic or foreign), or principle of common law, which is similar, comparable, or equivalent to said provision.

For an explanation of some of the Definitions used in this Notice, you can refer to the Settlement Agreement, which can be accessed at www.gtx970settlement.com.

GETTING MORE INFORMATION

25. Are more details available?

This Notice summarizes the proposed settlement. For the precise terms and conditions of this settlement, please see the Settlement Agreement at www.gtx970settlement.com. You may also obtain a copy by writing to the Administrator (at the address listed above), by contacting Class Counsel as set forth below, by accessing the Court docket in this case through the Court's Public Access to Court Electronic Records (PACER) at <https://ecf.cand.uscourts.gov>, or by reviewing the court file, which is available for your inspection between 9:00 a.m. and 4:00 p.m. Monday through Friday (excluding Court holidays) at the Office of the Clerk of the United States District Court for the Northern District of California, 1301 Clay Street, Suite 400S, Oakland, CA 94612, under the Civil Action Number 15-CV-00760-PJH.

You may also visit the settlement website at www.gtx970settlement.com, where you will find the [Settlement Agreement](#), [Plaintiff's Second Amended Consolidated Complaint](#), [Defendants' response to the Complaint](#), the papers filed with the Court in support of this settlement, and instructions on how to submit a Claim Form.

You may also obtain more information by contacting Class Counsel by e-mail at info@gtx970settlement.com, or by calling the Settlement Administrator toll-free at 1-844-312-5253.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

DATED: August 24, 2016

**BY ORDER OF THE UNITED STATES
DISTRICT COURT FOR THE NORTHERN
DISTRICT OF CALIFORNIA**