

AMENDED SUPPLEMENTAL 60-DAY NOTICE OF ALLEGED VIOLATION

SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)

Date: November 5, 2007

To: Dell, Inc. c/o Robert L. Falk, Esq.;
Gateway, Inc. c/o Robert L. Falk, Esq.;
Genica Corporation c/o Robert L. Falk, Esq.;
CompGeeks.com c/o Robert L. Falk, Esq.;
Hewlett-Packard Company c/o Ann G. Grimaldi, Esq.;
Compaq Computer Corporation c/o Ann G. Grimaldi, Esq.; and
California Attorney General's Office.

From: Michael DiPirro

I. INTRODUCTION

My name is Michael DiPirro. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice is provided to the parties listed on the attached Proof of Service pursuant to California Health & Safety Code §25249.6 *et seq.* ("Proposition 65") and amends the Supplemental 60-Day Notice of Violation sent on October 26, 2007. As noted above, notice is being provided to the violators, Gateway, Inc.; Dell, Inc.; Genica Corporation; CompGeeks.com; Hewlett Packard Company and Compaq Computer Corporation (the "Violators"). The violations covered by this Notice consist of the product exposures, routes of exposures, and types of harm potentially resulting from exposure to the toxic chemical ("listed chemical") identified below, as follows:

Product Exposure: See Section VI. Exhibit A
Listed Chemical: Lead
Routes of Exposure: Ingestion, Dermal, Inhalation
Types of Harm: Birth Defects and Other Reproductive Harm

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific types of products that are causing consumer and occupational exposures in violation of Proposition 65, and that are covered by this Notice, are motherboards and circuitboards listed under "Product Category/Type" in Exhibit A in Section VI below. These products, and all those contained within these two types of products, shall be referred to hereinafter as the "products." The Violators'

sales of these products, including, but not limited to, daughterboards and peripheral component interconnect slot and video cards have been occurring from at least April 30, 2006, to the present. As a result of the sales of these products, exposures to the listed chemical have been occurring without clear and reasonable warnings as required by Proposition 65. Without proper warnings regarding the toxic effects of exposures to the listed chemical resulting from contact with the products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the toxic chemical from the reasonably foreseeable use of the products.

A. CONSUMER PRODUCT EXPOSURE

California consumers who purchase or acquire the products are exposed to the listed chemical through the act of handling, installing, repairing, transporting, manipulating, or otherwise utilizing the motherboard and circuitboard products. These tasks cause consumers to be exposed directly and/or indirectly to the listed chemical through the routine touching of the parts or portions of the products containing readily available amounts of the listed chemical on the surface (i.e., solder points). Additionally, exposures can occur as the listed chemical is transferred from the fingers and hands of users to the lips and mouth through various hand-to-mouth activities, such as eating, drinking, gum chewing, and fingernail biting. Furthermore, consumers can be exposed to the listed chemical through the inhalation of fumes that result when the solder and solder materials are heated to certain temperatures. These products are also used by sole proprietors, employees, and other persons engaged in the small business field of computer service and repair that the Occupational Safety Health Act ("OSH Act") does not cover. People likely to be exposed include both children and adults.

B. OCCUPATIONAL EXPOSURE

Similarly, men and women in California use or otherwise handle the products as a part of their jobs and, therefore, are subject to occupational exposures to the listed chemical. Employees are exposed to the listed chemical at California business locations where the products, or the component parts thereof, are, by way of example but not limitation, used, installed, packed, unpacked, labeled, arranged, displayed, repaired, or otherwise handled. Those California business locations include, without limitation, locations of the manufacturer, apparent manufacturer, distributor, retailer (and their agents, assigns, and divisions), and/or the more than 4,200 advertised California computer service and repair companies. These tasks cause employee exposure directly and/or indirectly to the listed chemical through the routine touching of the parts or portions of the products containing readily available amounts of the listed chemical on the surface (i.e., solder points). Additionally, exposures can occur as the listed chemical is transferred from the fingers and hands of employees to the lips and mouth through various hand-to-mouth activities, such as eating, drinking, gum chewing, and fingernail biting. Furthermore, employees can be exposed to the listed chemical through the inhalation of fumes that result when the solder and solder materials are heated to certain temperatures. These products are also used by sole proprietors and other persons in settings not covered by the OSH Act. This Notice alleges the violation of Proposition 65 with respect to occupational exposure governed by the California State Plan for Occupational Safety and

Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions with regard to occupational exposures on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliance contained in the general hazard communication requirement to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the California Attorney General.

III. CONTACT INFORMATION

Please direct all questions concerning this notice to me at the following address:

Michael DiPirro
c/o David Bush
Hirst & Chanler LLP
2674 Main Street, Suite D
PMB 139
Ventura, CA 93003
Telephone: (800) 935-8116

IV. PROPOSITION 65 INFORMATION

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violators' reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

V. ADDITIONAL NOTICE INFORMATION

THIS INFORMATION IS NOT REQUIRED TO BE PROVIDED UNDER CAL. CODE REGS., TITLE 22 §12903(b)(4).

Identified below are specific examples of motherboard and circuitboard products recently purchased and witnessed as being available for purchase or use in California that are within the categories or types of offending products covered by this Notice. Based on publicly available information, the retailers, distributors, and/or manufacturers of the examples within the categories or types of products are also provided below. I believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 "clear and reasonable warnings" at other locations and via other means including, but not limited to, transactions made over-the-counter, business-to-business, through the Internet, and/or via a catalog by the Violators and/or other retailers and distributors of the manufacturer.

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
Gateway 7210 Server Motherboard, #4000690	http://www.prioritycomputerparts.com	Gateway, Inc.
DVI Adapter (PCIe x16 ADD2) BTX Card, Part No. 6002910		Gateway, Inc.
Dell GX100 Motherboard, #91XJP	http://www.alancomputech.com	Dell Inc.
Dell V.92/56K Modem Daughter Card		Dell Inc.
PCPartner Socket 754 MB Kit, Part #A-PCP3000-K1	CompGeeks.com; Genica Corporation (http://www.geeks.com)	PC Partner Limited
nVidia Quadro4 700XGL 64MB AGP Video Card w/TV, DVI, Part #: 180-10080-0000-U	CompGeeks.com; Genica Corporation (http://www.geeks.com)	
ATI Radeon X700 128MB DDR3 PCI Express Video Card w/TV-Out, Part #: R41A-NC3	CompGeeks.com; Genica Corporation (http://www.geeks.com)	
Compaq System DL380 I/O Board Motherboard, #228494-001	http://www.compuvest.com	Compaq Computer Corporation; Hewlett-Packard Company
PCI Slot Expansion Board, Part No. 252609-001		Hewlett-Packard Company

VI. EXHIBIT A

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
Motherboards and circuitboards with solder (containing lead)	Gateway 7210 Server Motherboard, #4000690	Lead
Motherboards and circuitboards with solder (containing lead)	DVI Adapter (PCIe x16 ADD2) BTX Card, Part No. 6002910	Lead
Motherboards and circuitboards with solder (containing lead)	Dell GX100 Motherboard, #91XJP	Lead
Motherboards and circuitboards with solder (containing lead)	Dell V.92/56K Modem Daughter Card	Lead
Motherboards and circuitboards with solder (containing lead)	PCPartner Socket 754 MB Kit, Part #A-PCP3000-K1	Lead
Motherboards and circuitboards with solder (containing lead)	nVidia Quadro4 700XGL 64MB AGP Video Card w/TV, DVI, Part #: 180-10080-0000-U ATI Radeon X700 128MB DDR3 PCI Express Video Card w/TV-Out, Part #: R41A-NC3	Lead
Motherboards and circuitboards with solder (containing lead)	Compaq System DL380 I/O Board Motherboard, #228494-001	Lead
Motherboards and circuitboards with solder (containing lead)	PCI Slot Expansion Board, Part No. 252609-001	Lead

*The specifically identified examples of the types of products which are subject to this Notice are for the recipients' benefit to assist in its investigation of, among other things, the magnitude of potential exposure to the listed chemical from other items within the product categories listed in Exhibit A. It is important to note that these examples are not meant to be an exhaustive or comprehensive identification of each specific offending product of the types listed under "Product Category/Type" in Exhibit A. Further, it is this citizen's position that the alleged Violators are obligated to continue to conduct in good faith an investigation into other specific products within the types or categories described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipients' custody or control) during the relevant period so as to ensure that the requisite toxic warnings are provided to California citizens prior to purchase.

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is 2560 Ninth Street, Parker Plaza, Suite 214, Berkeley, CA 94710.

On November 5, 2007, I served the following documents:

**AMENDED SUPPLEMENTAL 60-DAY NOTICE OF ALLEGED VIOLATION
SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE §25249.7(d);**

PROPOSITION 65: A SUMMARY;

CERTIFICATE OF MERIT; AND

**CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE
ATTORNEY GENERAL)**

on the Violators listed below via First Class Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the Violators' counsel and providing such envelope to a United States Postal Service Representative:

Gateway, Inc.; Dell, Inc.; Genica Corp.;
CompGeeks.com; c/o
Robert L. Falk, Esq.
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482

Hewlett Packard Company; Compaq
Computer Corp.; c/o
Ann G. Grimaldi, Esq.
McKenna, Long & Aldridge LLP
101 California St., 41st Floor
San Francisco, CA 94111

as well as providing copies of the notice to the public enforcers by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

By placing each envelope in a United States Postal Service mailbox, first class postage prepaid:

The Attorney General of the State of California;
The District Attorney for each of the 58 counties of California; and
The City Attorney for Los Angeles, San Diego, San Jose, San Francisco and Sacramento;

A list of addresses for each of these recipients is attached.

Executed on November 5, 2007, at Berkeley, California.



Mark Langford

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, David Bush, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the party identified in the notice has violated Health and Safety Code §25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the *alleged* exposure to the listed chemical that is the subject of this action.
4. Based on the information obtained through those consultations, and on all other information in my possession including statements from the alleged violators, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and the information did not prove that the alleged violators will be able to establish any of the affirmative defenses set forth in the statute.
5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including information identified in Health and Safety Code §25249.7(h)(2) (*i.e.*, (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.)

Dated: November 5, 2007



David Bush

SERVICE LIST

The Honorable Tom Orloff
Alameda County District Attorney
1225 Fallon Street, Room 900
Oakland, CA 94612

The Honorable William Richmond
Alpine County District Attorney
270 Laramie Street, PO BOX 248
Markleeville, CA 96120

The Honorable Todd Riebe
Amador County District Attorney
708 Court Street, #202
Jackson, CA 95642

The Honorable Michael Ramsey
Butte County District Attorney
25 County Center Drive,
Administration Building
Oroville, CA 95965

The Honorable Jeffrey Tuttle
Calaveras County District Attorney
891 Mountain Ranch Road
San Andreas, CA 95249

The Honorable John R. Poyner
Colusa County District Attorney
547 Market Street
Colusa, CA 95932

The Honorable Robert J. Kochly
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725 Court Street, 4th Floor, Rm. 402
Martinez, CA 94533

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Crescent City, CA 95531

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Fresno, CA 93721

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Glenn County District Attorney
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Willows, CA 95981

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Humboldt County District Attorney
825 5th Street
Eureka, CA 95501

The Honorable Gilbert Otero
Imperial County District Attorney
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El Centro, CA 92243

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Inyo County District Attorney
P O Drawer D
Independence, CA 93526

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Lakeport, CA 95451

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Lassen County District Attorney
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Susanville, CA 96130

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Alturas, CA 96101

The Honorable George Booth
Mono County District Attorney
Old Court House, Main Street
Bridgeport, CA 93517

The Honorable Dean Flippo
Monterey County District Attorney
240 Church Street, #101
Salinas, CA 93901

The Honorable Gary Lieberstein
Napa County District Attorney
931 Parkway Mall
Napa, CA 94559

The Honorable Michael Ferguson
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Nevada City, CA 95959

The Honorable Tony Rackauckas
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Santa Ana, CA 92701

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Auburn, CA 95603

The Honorable Jeff Cunan
Plumas County District Attorney
520 Main Street, Room 404
Quincy, CA 95971

The Honorable Grover Trask II
Riverside County District Attorney
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Riverside, CA 92501

The Honorable Jan Scully
Sacramento County District Attorney
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Sacramento, CA 95814

The Honorable John Sarsfield
San Benito County District Attorney
419 4th Street, Second Floor
Hollister, CA 95203

The Honorable Michael Ramos
San Diego County District Attorney
316 N. Mountain View Avenue
San Bernardino, CA 92415

The Honorable Bonnie Dumanis
San Diego County District Attorney
330 W. Broadway Street, Suite 1320
San Diego, CA 92101

The Honorable Kamala Harris
San Francisco County District Attorney
850 Bryant Street, Room 325
San Francisco, CA 94103

The Honorable James Willett
San Joaquin County District Attorney
222 E. Weber Avenue, 2nd Floor, Room 202
Stockton, CA 95201

The Honorable Gerald Shea
San Luis Obispo County District Attorney
1050 Monterey Street, Room 450
San Luis Obispo, CA 93408

The Honorable James Fox
San Mateo County District Attorney
400 County Center, Third Floor
Redwood City, CA 94063

The Honorable Thomas Sneddon, Jr.
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The Honorable Donald Segerstrom, Jr
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Yolo County District Attorney
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The Honorable Patrick McGrath
Yuba County District Attorney
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Marysville, CA 95901

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1200 Third Avenue, Suite 1620
San Diego, CA 92101

The Honorable Samuel Jackson
Office of the City Attorney, Sacramento
915 I Street, 4th Floor
Sacramento, CA 95814

The Honorable Dennis J. Herrera
Office of the City Attorney, San Francisco
City Hall, Room 234
San Francisco, CA 94102

The Honorable Richard Doyle
Office of the City Attorney, San Jose
200 East Santa Clara Street
San Jose, CA 95113

Office of the California Attorney General
Proposition 65 Enforcement Reporting
ATTN: Prop 65 Coordinator
1515 Clay Street, Suite 2000
Oakland, CA 94612-0550