

IN THE CIRCUIT COURT
FOR TUSCALOOSA COUNTY, ALABAMA

CAROL L. WHITAKER and RONALD W. HEIBY,
on their own behalf and on behalf of
all persons similarly situated,

Plaintiffs,

CV2000-1326

-against-

CLASS ACTION

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Defendant.

SUMMARY NOTICE OF PENDENCY AND SETTLEMENT OF CLASS ACTION

TO: ALL PERSONS IN THE UNITED STATES WHO PURCHASED AN IBM APTIVA PERSONAL COMPUTER OR IBM THINKPAD NOTEBOOK COMPUTER CONTAINING AN "MWAVE" COMBINATION MODEM AND SOUND CARD.

THIS SUMMARY NOTICE IS GIVEN TO INFORM ALL POTENTIAL CLASS MEMBERS OF A PROPOSED SETTLEMENT OF THIS LITIGATION. IF YOU ARE A MEMBER OF THE CLASS DESCRIBED BELOW, YOUR RIGHTS ARE AFFECTED BY THIS LITIGATION AND BY THE PROPOSED SETTLEMENT. PLEASE READ THIS SUMMARY NOTICE CAREFULLY AND IN FULL.

Plaintiffs in this action (the "Alabama Action") allege that the Mwave combination modem and sound cards installed in certain IBM Aptiva and IBM ThinkPad computers suffer from a design defect that prevents such Aptiva and ThinkPad computers from properly providing modem and/or sound functionality and that IBM made false and inaccurate statements and representations concerning the sound and/or modem functionality of the subject computers. IBM vigorously denies all liability with respect to the plaintiffs' allegations and denies that it has engaged in any wrongdoing. A settlement has now been proposed.

Definition of the Class

The Court has preliminarily ruled that this Action may proceed, for purposes of settlement only, on behalf of a class (the "Class") defined as:

(i) all persons and entities in the United States, excluding resellers of the subject computers, who, during the period September 1, 1994, through November 1, 2000, purchased a new Qualifying Aptiva (defined below) from IBM or from any entity authorized by IBM to sell such Qualifying Aptivas, excluding IBM employees and those such persons and entities who have executed releases releasing IBM from liability concerning or encompassing any or all claims that are the subject of the Alabama Action; and (ii) all "consumers" (defined as individuals buying primarily for home or personal use) in the United States who, during the period September 1, 1994, through November 1, 2000, purchased a new Qualifying ThinkPad (defined below) from IBM or from any entity authorized by IBM to sell such Qualifying ThinkPads, excluding IBM employees and those such consumers who have executed releases releasing IBM from liability concerning or encompassing any or all claims that are the subject of the Alabama Action.

The Aptivas Covered By The Settlement

The following IBM Aptiva personal computers designated by the IBM machine types and model numbers are Qualifying Aptivas affected by the Settlement: 2144-M30, 2144-M31, 2144-M35, 2168-M40, 2168-M41, 2144-M50, 2144-M51, 2144-M52, 2168-M53, 2168-M54, 2168-M55, 2168-M56, 2168-M57, 2168-M58, 2168-M60, 2168-M61, 2168-M62, 2144-M63, 2168-M70, 2168-M71, 2168-M72, 2168-M91, 2144-A10, 2144-A12, 2144-A14, 2168-A15, 2168-A40, 2168-A44, 2168-A45, 2168-A50, 2168-A51, 2168-A52, 2168-A90, 2168-A92, 2168-A94, 2134-C21, 2176-C23, 2176-C31, 2176-C33, 2176-C35, 2176-C55, 2176-C65, 2176-C67, 2176-C73, 2176-C77, 2176-C6D, 2176-C6Y, 2176-C66, 2176-C32, 2176-C6Z, 2176-C53, 2176-C6E, 2176-C3X, 2176-C5X, 2176-C6X, 2176-C6B, 2159-S64, 2159-S66, 2159-S74, 2159-S76, 2159-S7H, 2159-S78.

The ThinkPads Covered By The Settlement

The following IBM ThinkPad computers designated by the IBM series designations, machine types and model numbers are Qualifying ThinkPads affected by the Settlement: 755CD (9545 9BD), 755CD (9545 9BE), 755CD (9545 FBK), 755CD (9545 FBL), 755CE (9545 7BD), 755CE (9545 7BE), 755CE (9545 7BC), 755CV (9545 8BJ), 755CV (9545 EBK), 755CV (9545 EBL), 755CX (9545 HBE), 755CX (9545 HBD), 755CX (9545 HBL), 755CDV (9545 ABK), 755CDV (9545 ABJ), 755CDV (9545 GBL), 755CDV (9545 GBK), 755CSE (9545 6BD), 755CSE (9545 6BE), 755CSE (9545 6BC), 760C (9546 U21), 760C (9546 U22), 760C (9546 U2A), 760C (9546 U2B), 760C (9546 U27), 760C (9546 U2H), 760CD (9546 U1C), 760CD (9546 U13), 760C (9546 U2J), 760CD (9546 U11), 760CD (9546 U1A), 760E (9546 U3L), 760E (9546 U3B), 760E (9546 U4A), 760E (9546 U4B), 760E (9546 U9B), 760ED (9546 U3A), 760ED (9546 U9A), 760XD (9546 U9E), 765D (9546 U9H), 760C (9546 U28).

Note: All purchasers of the Qualifying Aptivas are affected by the Settlement. "Consumer" purchasers (individuals who purchased primarily for personal or household use) of the Qualifying ThinkPads are affected by the Settlement.

IBM has not sold Qualifying Aptivas or Qualifying ThinkPads since at least early 1998. The machines types and model numbers of the Qualifying Aptivas, and the series designations, machines types and model numbers of the Qualifying ThinkPads are shown on the respective computers themselves. If you need assistance locating these on your Qualifying Aptiva or Qualifying ThinkPad, please contact the Settlement Administrator.

Summary of Settlement Benefits

There are four different categories of benefits provided for by the Settlement. With respect to each Qualifying Aptiva or Qualifying ThinkPad, each Class Member is eligible to receive, may request and may receive only one of these categories of benefits. No benefits will be distributed to Class Members until the Settlement is finally approved by the Court, becomes final and nonappealable and the deadline for submitting claims expires.

Category One. If you purchased a Qualifying Aptiva and you have purchased, or purchase within the time specified below, a Qualifying Modem (defined below), or Qualifying Sound Card (defined below), or both, for use in the Qualifying Aptiva, you are eligible to receive the following benefits:

1. A cash payment of the amount you actually paid for the Qualifying Modem (defined below) or Qualifying Sound Card (defined below), or both, including sales taxes and shipping charges paid, up to a maximum total payment of \$100; **and**
2. A Discount Certificate redeemable for a 10% discount of up to \$100 off the combined purchase price, exclusive of applicable sales taxes and shipping charges, of any one or more IBM Computer Products (but only one Aptiva, ThinkPad or other computer system unit) that you purchase contemporaneously by calling a toll-free number which IBM shall establish for this purpose and which will appear in your Discount Certificate. "IBM Computer Product" means any product (including, without limitation, personal computers and handheld computing devices and related products, peripheral devices and accessories) that is offered for sale by IBM directly to end users through ShopIBM (<http://www.ibm.com/shop>), or any successor service, at the time you redeem your Discount Certificate.

Category Two. If you are a "consumer" (defined as an individual who purchased primarily for personal or household use) who purchased a Qualifying ThinkPad and you have purchased, or purchase within the time specified below, a Qualifying Modem (defined below) or Qualifying Sound Card (defined below), or both, for use in the Qualifying ThinkPad, you are eligible to receive the following benefits:

1. A cash payment of the amounts you actually paid for the Qualifying Modem, Qualifying Sound Card, or both, including sales taxes and shipping charges paid, up to a maximum total payment of \$50; **and**
2. A Discount Certificate redeemable for a 10% discount of up to \$50 off the combined purchase price, of any one or more IBM Computer Products (but only one Aptiva, ThinkPad or other computer system unit) that you purchase contemporaneously by calling a toll-free number which IBM shall establish for this purpose and which will appear in your Discount Certificate. "IBM Computer Product" is defined under Category One above.

Category Three. If you purchased a Qualifying Aptiva and you have not purchased, or do not purchase within the time specified below, a Qualifying Modem (defined below) or Qualifying Sound Card (defined below) for use in the Qualifying Aptiva, you are eligible to receive a Discount Certificate redeemable for a 10% discount of up to \$150 off the combined purchase price, exclusive of applicable sales taxes and shipping charges, of any one or more IBM Computer Products (but only one Aptiva, ThinkPad or other computer system unit) that you purchase contemporaneously by calling a toll-free number which IBM shall establish for this purpose and which will appear in your Discount Certificate. "IBM Computer Product" is defined under Category One above.

Category Four. If you are a "consumer" (defined as an individual who purchased primarily for personal or household use) who purchased a Qualifying ThinkPad and you have not purchased, or do not purchase within the time specified below, a Qualifying Modem (defined below) or Qualifying Sound Card (defined below) for use in the Qualifying ThinkPad, you are eligible to receive a Discount Certificate redeemable for a 10% discount of up to \$100 off the combined purchase price, exclusive of applicable sales taxes and shipping charges, of one or more IBM Computer Products (but only one Aptiva, ThinkPad or other computer system unit) that you purchase contemporaneously by calling a toll-free number which IBM shall establish for this purpose and which will appear in your Discount Certificate. "IBM Computer Product" is defined under Category One above.

"Qualifying Modem" means any (i) external modem, (ii) PCMCIA (PC Card) modem, or (iii) internal (ISA) modem that you purchase(d) no later than May 27, 2001, for use in your Qualifying Aptiva or Qualifying ThinkPad. "Qualifying Sound Card" means an audio (sound) card that you purchase(d) no later than May 27, 2001 for use in your Qualifying Aptiva or Qualifying ThinkPad.

In order to receive benefits under this Settlement, you must obtain and submit a completed Claim Form and the documentation called for in the Claim Form. You should refer to the Notice of Pendency and Settlement of Class Action ("Notice") for a complete description of the benefits that may be available to you under the Settlement and the procedures on how to submit a Claim Form. A copy of the Notice and a Claim Form may be obtained from the Settlement Administrator as indicated below.

Your Claim Form(s) must be returned postmarked no later than May 27, 2001.

You may exclude yourself from the Settlement or object to its final approval by following the procedures that are set out in the Notice. If you exclude yourself from the Settlement, you will not be bound by its terms and will not be eligible to receive any of the Settlement benefits. However, you may pursue your claims individually. If you are a member of the Class and you do not request exclusion from the Settlement and the Settlement is finally approved by the Court, you will be bound by its terms and will give up certain rights, including the right to bring any claim or lawsuit against IBM that are our could have been pleaded in the Alabama Action regarding the sound (audio) and/or modem (communications) functionality of the Qualifying Aptivas and Qualifying ThinkPads that are the subject of the Alabama Action. An Exclusion Form may be obtained from the Settlement Administrator as indicated below. All requests for exclusion from the Settlement must be returned postmarked no later than Dec. 26, 2000, except with respect to purchasers of the 2144-M63, 2168-A15, 2176-C6B and 2176-C65 machine type and model numbers, whose requests for exclusion from the Settlement must be returned postmarked no later than January 15, 2001. All objections to the Settlement must be filed with the Court and postmarked no later than December 18, 2000, except with respect to purchasers of the 2144-M63, 2168-A15, 2176-C6B and 2176-C65 machine type and model numbers, whose objections to the Settlement must be filed with the Court and received no later than January 5, 2001.

Notice of Fairness Hearing

The Court will conduct a Fairness Hearing on January 8, 2001 at 5:00 P.M. in Courtroom 2 at the Tuscaloosa County Courthouse, 714 Greensboro Ave., Tuscaloosa, Alabama 35401, to determine whether to finally approve the Settlement as fair, reasonable and adequate and to rule on an application by Plaintiffs' Counsel for an award of attorney's fees to be paid by IBM. This is a rescheduled Fairness Hearing Date.

This is only a summary of the Settlement, claims procedures and other procedures concerning the Settlement, which are described in detail in the Notice.

To obtain a copy of the formal Notice, a Claim Form, and other relevant documents and information, log onto www.ibmwwavesettlement.com or call 1-866-363-5044 or write to the Settlement Administrator
IBM MWAVE CLASS ACTION SETTLEMENT, P.O. Box 7105, London, KY 40742-7105

PLEASE DO NOT CONTACT THE COURT OR THE JUDGE

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Note: All purchasers of the Qualifying Aptivas are affected by the Settlement. "Consumer" purchasers (individuals who purchased primarily for personal or household use) of the Qualifying ThinkPads are affected by the Settlement.

IBM has not sold Qualifying Aptivas or Qualifying ThinkPads since at least early 1998. The machines types and model numbers of the Qualifying Aptivas, and the series designations, machines types and model numbers of the Qualifying ThinkPads are shown on the respective computers themselves. If you need assistance locating these on your Qualifying Aptiva or Qualifying ThinkPad, please contact the Settlement Administrator.

Summary of Settlement Benefits

There are four different categories of benefits provided for by the Settlement. With respect to each Qualifying Aptiva or Qualifying ThinkPad, each Class Member is eligible to receive, may request and may receive only one of these categories of benefits. No benefits will be distributed to Class Members until the Settlement is finally approved by the Court, becomes final and nonappealable and the deadline for submitting claims expires.

Category One. If you purchased a Qualifying Aptiva and you have purchased, or purchase within the time specified below, a Qualifying Modem (defined below), or Qualifying Sound Card (defined below), or both, for use in the Qualifying Aptiva, you are eligible to receive the following benefits:

1. A cash payment of the amount you actually paid for the Qualifying Modem (defined below) or Qualifying Sound Card (defined below), or both, including sales taxes and shipping charges paid, up to a maximum total payment of \$100; and
2. A Discount Certificate redeemable for a 10% discount of up to \$100 off the combined purchase price, exclusive of applicable sales taxes and shipping charges, of any one or more IBM Computer Products (but only one Aptiva, ThinkPad or other computer system unit) that you purchase contemporaneously by calling a toll-free number which IBM shall establish for this purpose and which will appear in your Discount Certificate. "IBM Computer Product" means any product (including, without limitation, personal computers and handheld computing devices and related products, peripheral devices and accessories) that is offered for sale by IBM directly to end users through ShopIBM (<http://www.ibm.com/shop>), or any successor service, at the time you redeem your Discount Certificate.

Category Two. If you are a "consumer" (defined as an individual who purchased primarily for personal or household use) who purchased a Qualifying ThinkPad and you have purchased, or purchase within the time specified below, a Qualifying Modem (defined below) or Qualifying Sound Card (defined below), or both, for use in the Qualifying ThinkPad, you are eligible to receive the following benefits:

1. A cash payment of the amounts you actually paid for the Qualifying Modem, Qualifying Sound Card, or both, including sales taxes and shipping charges paid, up to a maximum total payment of \$50; and
2. A Discount Certificate redeemable for a 10% discount of up to \$50 off the combined purchase price, of any one or more IBM Computer Products (but only one Aptiva, ThinkPad or other computer system unit) that you purchase contemporaneously by calling a toll-free number which IBM shall establish for this purpose and which will appear in your Discount Certificate. "IBM Computer Product" is defined under Category One above.

Category Three. If you purchased a Qualifying Aptiva and you have not purchased, or do not purchase within the time specified below, a Qualifying Modem (defined below) or Qualifying Sound Card (defined below) for use in the Qualifying Aptiva, you are eligible to receive a Discount Certificate redeemable for a 10% discount of up to \$150 off the combined purchase price, exclusive of applicable sales taxes and shipping charges, of any one or more IBM Computer Products (but only one Aptiva, ThinkPad or other computer system unit) that you purchase contemporaneously by calling a toll-free number which IBM shall establish for this purpose and which will appear in your Discount Certificate. "IBM Computer Product" is defined under Category One above.

Category Four. If you are a "consumer" (defined as an individual who purchased primarily for personal or household use) who purchased a Qualifying ThinkPad and you have not purchased, or do not purchase within the time specified below, a Qualifying Modem (defined below) or Qualifying Sound Card (defined below) for use in the Qualifying ThinkPad, you are eligible to receive a Discount Certificate redeemable for a 10% discount of up to \$100 off the combined purchase price, exclusive of applicable sales taxes and shipping charges, of one or more IBM Computer Products (but only one Aptiva, ThinkPad or other computer system unit) that you purchase contemporaneously by calling a toll-free number which IBM shall establish for this purpose and which will appear in your Discount Certificate. "IBM Computer Product" is defined under Category One above.

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In order to receive benefits under this Settlement, you must obtain and submit a completed Claim Form and the documentation called for in the Claim Form. You should refer to the Notice of Pendency and Settlement of Class Action ("Notice") for a complete description of the benefits that may be available to you under the Settlement and the procedures on how to submit a Claim Form. A copy of the Notice and a Claim Form may be obtained from the Settlement Administrator as indicated below.

Your Claim Form(s) must be returned postmarked no later than May 27, 2001.

You may exclude yourself from the Settlement or object to its final approval by following the procedures that are set out in the Notice. If you exclude yourself from the Settlement, you will not be bound by its terms and will not be eligible to receive any of the Settlement benefits. However, you may pursue your claims individually. If you are a member of the Class and you do not request exclusion from the Settlement and the Settlement is finally approved by the Court, you will be bound by its terms and will give up certain rights, including the right to bring any claim or lawsuit against IBM that are our could have been pleaded in the Alabama Action regarding the sound (audio) and/or modem (communications) functionality of the Qualifying Aptivas and Qualifying ThinkPads that are the subject of the Alabama Action. An Exclusion Form may be obtained from the Settlement Administrator as indicated below. All requests for exclusion from the Settlement must be returned postmarked no later than Dec. 26, 2000, except with respect to purchasers of the 2144-M63, 2168-A15, 2176-C6B and 2176-C65 machine type and model numbers, whose requests for exclusion from the Settlement must be returned postmarked no later than January 15, 2001. All objections to the Settlement must be filed with the Court and postmarked no later than December 18, 2000, except with respect to purchasers of the 2144-M63, 2168-A15, 2176-C6B and 2176-C65 machine type and model numbers, whose objections to the Settlement must be filed with the Court and received no later than January 5, 2001.

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This is only a summary of the Settlement, claims procedures and other procedures concerning the Settlement, which are described in detail in the Notice.

To obtain a copy of the formal Notice, a Claim Form, and other relevant documents and information, log onto www.ibmwavesettlement.com or call 1-866-363-5044 or write to the Settlement Administrator

IBM MWAVE CLASS ACTION SETTLEMENT, P.O. Box 7105, London, KY 4042-7105

PLEASE DO NOT CONTACT THE COURT OR THE JUDGE

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