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9 Attorneys for Defendants

10 Homestore, Inc., The National Association of Realtors  
 and The National Association of Home Builders of the  
 11 United States

12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA  
 14 SAN FRANCISCO DIVISION

15 KEVIN L. KEITHLEY and TREN  
 16 TECHNOLOGIES HOLDINGS, LLC,

17 Plaintiffs,

18 v.

19 HOMESTORE.COM, INC., *et al.*,

20 Defendants.  
 21

Case No. C 03-4447 SI

**STIPULATION AND [Proposed] ORDER**

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1           Whereas Defendants believe themselves to be prevailing parties as that phrase is used in  
2 connection with the right to be awarded costs as a result of this Court’s Order granting Defendants’  
3 Motion for Summary Judgment as to Noninfringement and Invalidity Based on Indefiniteness. [Dkt.  
4 862] (“the Order”);

5           Whereas Defendants are unsure of whether the Order triggered an obligation pursuant to  
6 Civil L.R. 54-1(a) to file their bill of costs on or before December 3, 2008;

7           Whereas Plaintiffs do not object to Defendants filing their bill of costs after judgment issues,  
8 however Plaintiffs’ lack of objection shall not be interpreted to be a concession that Defendants are  
9 prevailing parties as Civil L.R. 54-1 contemplates;

10           Whereas the Court’s calendar currently includes a pre-trial conference in this case for  
11 December 16, 2008 at 3:30 P.M, which the parties propose be converted to a Further Case  
12 Management Conference allowing the parties and the Court to discuss issues that should be resolved  
13 prior to the issuance of judgment.

14           Therefore pursuant to agreement, the parties stipulate and propose an Order issues as follows:

15           (1) To the extent any party believes itself to be prevailing party, a bill of costs may be filed  
16 within 14 days after judgment issues in this case;

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1 (2) The currently-calendared Pre-Trial Conference on December 16, 2008 at 3:30 P.M. shall  
2 be converted to a Further Case Management Conference.

3 IT IS SO STIPULATED:  
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5 Dated: December 3, 2008.

ALSTON & BIRD, LLP

6 By: /s/ Bruce J. Rose \_\_\_\_\_

7 BRUCE J. ROSE

8 Attorney for Defendants Homestore, Inc., the  
9 National Association of Realtors and the National  
10 Association of Home Builders of the United States

11 Dated: December 3, 2008.

FINNEGAN, HENDERSON, FARABOW,  
12 GARRETT, DUNNER, LLP

13 By: /s/ Scott R. Mosko \_\_\_\_\_

14 SCOTT. R. MOSKO

15 Attorney for Plaintiffs Kevin Keithley and Tren  
16 Technologies Holdings, LLC

17 IT IS SO ORDERED:

18 DATED: \_\_\_\_\_

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20 \_\_\_\_\_  
United States District Judge