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

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 15 SECURITIES AND EXCHANGE
 COMMISSION,
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 Plaintiff,
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 v.
 18 MERCURY INTERACTIVE, LLC
 19 (F/K/MERCURY INTERACTIVE, INC.),
 AMNON LANDAN, SHARLENE
 20 ABRAMS, DOUGLAS SMITH and SUSAN
 SKAER,
 21
 Defendants.

Case No. 5:07-cv-02822 WHA
 AMENDED
**STIPULATION AND [PROPOSED]
 ORDER GRANTING FURTHER
 EXTENSION FOR FILING
 SUPPLEMENTAL BRIEFING ON
 DEFENDANTS' MOTION FOR
 DISCOVERY SANCTIONS**

Date: August 3, 2012
 Time: 10:00 a.m.
 Dept: Courtroom F, 15th Floor
 Judge: Hon. William J. Alsup
 Magistrate: Hon. Jacqueline S. Corley

Trial Date: December 10, 2012

1 Plaintiff and Defendants (collectively, the “Parties”), by and through their respective
2 counsel, stipulate and agree as follows:

3 **WHEREAS**, on May 10, 2012, Defendants Amnon Landan, Douglas Smith, and Susan
4 Skaer brought a Motion for Discovery Sanctions pursuant to Federal Rules of Civil Procedure 26
5 and 37 and the inherent authority of the Court (Dkt. 212);

6 **WHEREAS**, Plaintiff SEC filed an Opposition on May 24, 2012 (Dkt. 217), and
7 Defendants filed a Reply on May 31, 2012 (Dkt. 222);

8 **WHEREAS**, on June 7, 2012, the Court heard oral argument on Defendants’ Motion;

9 **WHEREAS**, at the June 7, 2012 hearing the Court agreed to continue the hearing to (1)
10 allow Defendants to conduct additional discovery from Davis Polk & Wardwell LLP (“DPW”);
11 (2) attempt to obtain the Missing Documents (as that term is defined in Defendants’ Motion) from
12 Hewlett-Packard Company (“HP”) with Plaintiff’s assistance; and (3) thereafter, allow the Parties
13 to submit supplemental briefing in light thereof;

14 **WHEREAS**, on June 12, 2012, the Court ordered supplemental discovery and briefing
15 (Dkt. 229);

16 **WHEREAS**, on July 5, 2012, Kristofor Henning of Morgan, Lewis & Bockius, counsel
17 for HP, informed counsel for Defendants that HP had located one or more disks and
18 approximately 20 boxes of hard copy documents, two of which it had reviewed, that potentially
19 contain documents on the list of Missing Documents (collectively, the “Found Materials”);

20 **WHEREAS**, after having conferred with one another, the Parties agreed at that time that,
21 given the uncertainty as to what the Found Materials may contain and the degree to which they
22 match the Missing Document list, if at all, supplemental briefing by Defendants and/or Plaintiff
23 on the then-current schedule would have been premature;

24 **WHEREAS**, on July 9, 2012, the Parties filed a stipulation and proposed order granting a
25 ten-day extension of the briefing schedule under the Court’s June 12 Order (Dkt. 235);

26 **WHEREAS**, on July 9, 2012, the Court granted such extension (Dkt. 236);

27 **WHEREAS**, between July 9 and 18, 2012, the Parties worked diligently with Mr.
28 Henning in requesting an opportunity to inspect the Found Materials;

1 **WHEREAS**, counsel for HP agreed to make the Found Materials available to the SEC for
2 it to determine which, if any, of the Found Materials contained documents identified as missing
3 and to produce any such documents to Defendants;

4 **WHEREAS**, by approximately July 18, 2012, HP had shipped the boxes of materials to
5 Morgan Lewis's office in Washington, D.C., for the SEC to review;

6 **WHEREAS**, by the afternoon of July 18, 2012, SEC counsel had determined that the
7 Found Materials contained at least some of the Missing Documents but that the SEC would need
8 a further day to finish cataloging the Found Materials;

9 **WHEREAS**, the SEC received an additional three boxes of documents from Morgan
10 Lewis on July 19, 2012;

11 **WHEREAS**, by the afternoon of July 19, 2012, SEC counsel had determined that at least
12 61,000 pages of the Missing Documents had been located but that certain hard drives, which
13 counsel for the SEC believed might contain the remaining or at least additional Missing
14 Documents, had not been located;

15 **WHEREAS**, SEC counsel stated that he had asked counsel for HP to re-search its records
16 to determine if it had any of the aforementioned missing hard drives;

17 **WHEREAS**, after conferring the evening of July 19, 2012 and morning of July 20, 2012,
18 the Parties agree that any supplemental briefing would be premature in light of the continuing
19 uncertainty as to how many Missing Documents the SEC may be able to recover from HP;

20 **WHEREAS**, under the Court's July 9th Order, Defendants' supplemental brief would be
21 due today (Dkt. 236); and

22 **WHEREAS**, the Parties believe it is appropriate to further extend the time for filing of
23 supplemental briefing and prefer, if possible and convenient to the Court, to keep the currently
24 scheduled August 3, 2012 hearing date;

25 **NOW THEREFORE**, the Parties stipulate and agree, subject to the approval of the
26 Court, to further extend the time for filing of supplemental briefing as follows:

27 Defendants' Supplemental Brief due: July 26, 2012

28 Plaintiff's Supplemental Brief due: August 1, 2012

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Hearing: August 3, 2012, 10:00 a.m. (or as soon as practicable thereafter)

IT IS SO STIPULATED.

Dated: July 20, 2012

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M. TODD SCOTT
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By: /s/ James A. Meyers
 JAMES A. MEYERS

Attorneys for Defendant
SUSAN SKAER

Dated: July 20, 2012

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Dated: July 20, 2012

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Attorneys for Defendant
DOUGLAS SMITH

Dated: July 20, 2012

By: /s/ A. David Williams
 A. DAVID WILLIAMS

Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION

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ATTESTATION PURSUANT TO GENERAL ORDER 45, X

I, James A. Meyers, attest that concurrence in the filing of this document has been obtained from all signatories.

Dated: July 20, 2012

/s/
James A. Meyers
Orrick, Herrington & Sutcliffe LLP
Counsel for Susan Skaer

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Defendant's supplemental brief due: 7/25/2012 by noon. Plaintiff's supplemental brief due: 7/31/2012 by noon. Hearing is

Dated: July 20, 2012

Jacqueline S. Corley
THE HONORABLE JACQUELINE SCOTT CORLEY
UNITED STATES MAGISTRATE JUDGE