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9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 11 SAN FRANCISCO DIVISION

FENWICK & WEST LLP  
 ATTORNEYS AT LAW  
 SAN FRANCISCO

13 ACTIVIDENTITY CORPORATION, a  
 Delaware Corporation,

14 Plaintiff,

15 v.

16 INTERCEDE GROUP PLC AND  
 17 INTERCEDE LTD., both of Lutterworth,  
 UK,

18 Defendants.  
 19

20 AND RELATED COUNTERCLAIMS.  
 21

Case No.: 3:08-cv-04577 VRW

**STIPULATION AND ~~PROPOSED~~  
 ORDER MODIFYING CLAIM  
 CONSTRUCTION SCHEDULE**

1 Pursuant to Civil Local Rule 6-2, defendants and counterclaimants Intercede Group plc  
2 and Intercede Ltd. (collectively, “Intercede”) and plaintiff and counterdefendant ActivIdentity  
3 Corporation (“ActivIdentity”) submit this stipulated request to modify the claim construction  
4 schedule as currently established by this Court’s Patent Local Rules.

5 **A. The Parties Stipulate and Request that the Briefing Schedule for the Claim**  
6 **Construction Hearing be Modified.**

7 The parties stipulate and hereby request to modify the deadline for submitting the Joint  
8 Claim Construction Statement. On August 10, 2009, the parties submitted a Stipulation and  
9 Proposed Order seeking to modify the schedule for claim construction briefing. Because that  
10 Stipulation has not yet been addressed by the Court, the parties include in this Stipulation the  
11 same proposed modifications to the briefing schedule. The requested modifications will not  
12 affect the hearing date scheduled for February 10, 2010, and pursuant to Patent LR 4-6, all  
13 briefing would still be completed more than two weeks prior to the hearing date.

14 As previously mentioned, this is technically the parties’ second request<sup>1</sup> to modify the  
15 claim construction schedule. There have been several previous unrelated time modifications in  
16 this case. *See* Belichick Decl., ¶¶ 1-6.

17 The parties hereby stipulate and request to modify the claim construction schedule,  
18 including the due date for the Joint Claim Construction and Prehearing Statement and briefing  
19 schedule, from that provided in the Patent Local Rules. As set forth in the June 25, 2009 Joint  
20 Case Management Statement and as discussed during the July 2, 2009 case management  
21 conference, the parties previously proposed to modify the briefing schedule for claim construction  
22 due to scheduling conflicts relating to the intervening holiday season. *See* Doc # 37 at 15. Based  
23 on the proposed briefing schedule, the parties also requested a hearing date of February 11, 2010.  
24 *Id.* During the case management conference, the Court set a hearing for claim construction on  
25 February 10, 2010. *See* Doc # 39. The requested relief will not affect this hearing date. In

26 \_\_\_\_\_  
27 <sup>1</sup> On August 10, 2009, the parties submitted a Stipulation & Proposed Order to Modify the  
28 Claim Construction Briefing Schedule, but to date it has not been addressed by the Court.  
Belichick Decl., ¶ 7. The dates contained in the present Stipulation are identical to those in  
the August 10, 2009 Stipulation, except that the prior Stipulation did not seek to modify the  
date for submitting the Joint Claim Construction Statement.

1 addition, under the proposed schedule, claim construction briefing will be completed more than  
 2 two weeks prior to the hearing date, as required by Patent L.R. 4-6.

3 As currently set by the Northern District's Patent Local Rules, the briefing schedule  
 4 would require extensive briefing and client communications during the holiday season causing  
 5 scheduling conflicts for both parties and their respective counsels. *See* Belichick Decl., ¶ 8. The  
 6 parties have conferred regarding scheduling matters in this case, and considering the date set by  
 7 the Court for the claim construction hearing, believe that the due date for the Joint Claim  
 8 Construction and Prehearing Statement and the briefing schedule can be modified as requested  
 9 with no larger effect on the schedule for this case. The parties have already exchanged proposed  
 10 terms for construction and preliminary constructions and currently the parties are meeting and  
 11 conferring about claim construction. The parties have also agreed that neither party will seek to  
 12 further extend the dates for submitting the claim construction briefs or the February 10, 2010  
 13 hearing. Discovery relating to claim construction is ongoing. Belichick Decl., ¶ 9. Accordingly,  
 14 the parties stipulate and request that the Court modify the claim construction schedule as detailed  
 15 in the following table:

ACTION	CURRENT DATE	REVISED DATE
The parties to file Joint Claim Construction and Prehearing Statement	November 2, 2009	December 7, 2009
ActivIdentity to file Claim Construction Opening Brief under Patent Local Rule 4-5(a)	December 17, 2009	January 7, 2010
Intercede to file Responsive Claim Construction Brief under Patent Local Rule 4-5(b)	December 31, 2009	January 21, 2010
ActivIdentity to file Reply Claim Construction Brief under Patent Local Rule 4-5(c)	January 12, 2010	January 28, 2010

