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 OPTIMAL MARKETS, INC.

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

12

13 OPTIMAL MARKETS, INC.,

14 Plaintiff,

15 v.

16 FTI CONSULTING, INC., AUCTION  
 17 TECHNOLOGIES, LLC, AUCTION  
 TECHNOLOGIES, INC., XONOMIC INC.,  
 18 DAVID SALANT, HAROLD LEA, PAUL  
 MILGROM, and DOES 1-10,

19 Defendants.

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21 DAVID SALANT, HAROLD LEA, PAUL  
 MILGROM, AUCTION TECHNOLOGIES,  
 22 LLC, AUCTION TECHNOLOGIES, INC.,

23 Counterclaimants,

24 v.

25 OPTIMAL MARKETS, INC.,

26 Counterdefendant.

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Case No. 08-05765-SC

**STIPULATION AND [PROPOSED]  
 ORDER EXTENDING TIME TO  
 RESPOND TO COUNTERCLAIMS**

STIPULATION AND [PROPOSED] ORDER EXTENDING TIME TO RESPOND TO COUNTERCLAIMS  
 CASE No. 08-05765-SC

sf-2659975

1 Pursuant to Civil Local Rules 6-2 and 7-12, the parties, by and through their respective  
2 counsel, hereby stipulate as follows:

3 WHEREAS, pursuant to a stipulation filed on January 26, 2009, the parties agreed that  
4 Defendants would have until February 13, 2009 to file their answer to Optimal Markets' First  
5 Amended Complaint;  
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7 WHEREAS, Defendants answered the First Amended Complaint on February 13, 2009,  
8 and on that same date, Defendants Auction Technologies, LLC, Auction Technologies, Inc.,  
9 David Salant, Harold Lea, and Paul Milgrom asserted Counterclaims against Optimal Markets.

10 WHEREAS, pursuant to a stipulation filed on March 9, 2009, the parties agreed that  
11 Optimal Markets would have an extension until March 23, 2009 (from the original deadline of  
12 March 9, 2009) to answer Defendants David Salant, Harold Lea, Paul Milgrom, Auction  
13 Technologies, LLC, and Auction Technologies, Inc.'s Counterclaims, on account of Optimal  
14 Market's recent engagement of new counsel;  
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16 WHEREAS, Optimal Markets' new counsel needs further time for investigation to  
17 properly respond to the Counterclaims and to prepare its answer;

18 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, SUBJECT TO  
19 THE APPROVAL OF THE COURT:  
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21 1. Optimal Markets shall have until April 6, 2009 to file a response to Defendants'  
22 Counterclaims.

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Dated: March 20, 2009

LATHAM & WATKINS LLP  
Robert Steinberg  
Daniel Scott Schecter

By:     /s/Daniel Scott Schecter      
Daniel Scott Schecter

Attorneys for Defendants  
FTI CONSULTING, INC., AUCTION  
TECHNOLOGIES, LLC, AUCTION  
TECHNOLOGIES, INC., XONOMIC INC.,  
DAVID SALANT, HAROLD LEA, PAUL  
MILGROM

Dated: March 20, 2009

MORRISON & FOERSTER LLP  
Michael A. Jacobs  
Shane Brun  
Alexei Klestoff

By:     /s/ Shane Brun      
Shan Brun

Attorneys for Plaintiff  
OPTIMAL MARKETS, INC.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: March   23  , 2009



E-Filing Attestation: I, Alexei Klestoff, am the ECF User whose ID and password are being used to file this Stipulation and [Proposed] Order Extending Time to Respond to Counterclaims. In compliance with General Order 45, X.B., I hereby attest that Shane Brun and Daniel Scott Schecter have concurred in this filing.