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 INTERNATIONAL BUSINESS MACHINES
 6 CORPORATION and MRO SOFTWARE, INC.

7 UNITED STATES DISTRICT COURT
 8 NORTHERN DISTRICT OF CALIFORNIA

10 ACTUATE CORPORATION,
 11 a Delaware corporation,
 12 Plaintiff,
 13 v.
 14 INTERNATIONAL BUSINESS MACHINES
 CORPORATION, a Delaware corporation,
 15 MRO SOFTWARE, INC., a Massachusetts
 corporation,
 16 Defendants.
 17

Case No.: CV 09 5892 JCS

**STIPULATION REGARDING
RESPONSE TO COMPLAINT**

The Honorable Joseph C. Spero
Courtroom A, 15th Floor

28

1 WHEREAS, Plaintiff Actuate Corporation (“Actuate”) filed on December 16, 2009
2 its Complaint for Breach of Contract, Copyright Infringement, Circumvention of Copyright
3 Protection Systems, and Fraudulent Concealment (the “Complaint”);

4 WHEREAS, Defendants International Business Machines Corporation and MRO
5 Software, Inc. (collectively “Defendants”) were served on December 17, 2009 with a
6 summons and copy of the Complaint;

7 WHEREAS, Defendants have requested and Actuate has agreed to provide
8 Defendants additional time in which to respond to the Complaint; and

9 WHEREAS, Defendants intend to file a motion to dismiss one or more claims
10 alleged in the Complaint;

11 ACCORDINGLY, IT IS HEREBY STIPULATED AND AGREED that Defendants
12 will file a motion to dismiss on or before January 25, 2010 and will notice that motion for
13 hearing on March 5, 2010; that Actuate will file an opposition to Defendants’ motion to
14 dismiss on or before February 12, 2010; and that IBM will file a reply on or before February
15 19, 2010.

16 IT IS FURTHER STIPULATED AND AGREED that Defendants need not
17 otherwise respond to the Complaint until two weeks following the receipt of a ruling on
18 Defendants’ motion to dismiss.

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IT IS SO STIPULATED AND AGREED.

DATED: January 4, 2010

HOGAN & HARTSON LLP

By /s/ Michael J. Shepard
Michael J. Shepard

Attorneys for Defendants
INTERNATIONAL BUSINESS MACHINES
CORPORATION and MRO SOFTWARE, INC.

DATED: January 4, 2010

FENWICK & WEST LLP

By /s/ Rodger R. Cole
Rodger R. Cole

Attorneys for Plaintiff
ACTUATE CORPORATION

* * *

I, Michael J. Shepard, am the ECF User whose ID and password are being used to file this Stipulation Regarding Response to Complaint. In compliance with General Order 45, X.B., I hereby attest that Rodger R. Cole has concurred in this filing.

 /s/ Michael J. Shepard

Michael J. Shepard

Dated: January 5, 2010

