

1 RODGER R. COLE (CSB No. 178865)
rcole@fenwick.com
 2 JOSEPH S. BELICHICK (CSB No. 229371)
jbelichick@fenwick.com
 3 FENWICK & WEST LLP
 Silicon Valley Center
 4 801 California Street
 Mountain View, CA 94041
 5 Telephone: (650) 988-8500
 Facsimile: (650) 938-5200

6 DAVID L. HAYES (CSB No. 122894)
dhayes@fenwick.com
 7 ILANA S. RUBEL (CSB No. 221517)
irubel@fenwick.com
 8 JENNIFER J. JOHNSON (CSB No. 252897)
jjjohnson@fenwick.com

10 FENWICK & WEST LLP
 555 California Street - 12th Floor
 11 San Francisco, CA 94104
 Telephone: (415) 875-2300
 12 Facsimile: (415) 281-1350

13 Attorneys for Plaintiff
 ACTUATE CORPORATION

MICHAEL J. SHEPARD (CSB No. 91281)
mjshepard@hhlaw.com
 MICHAEL L. CHARLSON (CSB No. 122125)
mlcharlson@hhlaw.com
 MAREN J. CLOUSE (CSB No. 228726)
mjclouse@hhlaw.com
 KRISTI ELDER (CSB No. 231996)
kelder@hhlaw.com
 HOGAN & HARTSON LLP
 4 Embarcadero Center, 22nd Floor
 San Francisco, California 94111
 Telephone: (415) 374-2300
 Facsimile: (415) 374-2499

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

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
 16 SAN FRANCISCO DIVISION

18 ACTUATE CORPORATION,
 a Delaware corporation

19 Plaintiff,

20 v.

21 INTERNATIONAL BUSINESS MACHINES
 22 CORPORATION, a Delaware corporation,
 MRO SOFTWARE, INC., a Massachusetts
 23 corporation,

24 Defendants.
 25

Case No. CV 09 5892 JCS

**PARTIES' STIPULATION AND
 [PROPOSED] ORDER SELECTING
 ADR PROCESS**

FENWICK & WEST LLP
 ATTORNEYS AT LAW
 SAN FRANCISCO

Counsel have conferred regarding ADR and have reached the following stipulation pursuant to Civil L.R. 16-8 and ADR L.R. 3-5: The parties agree to participate in mediation, and are discussing Court-appointed and private processes as well as scheduling issues. As the case progresses, the parties may also consider alternatives to mediation. The parties will address the timing of such mediation at the Case Management Conference currently scheduled in this matter for April 2, 2010.

Dated: March 12, 2010

FENWICK & WEST LLP

By: /S/ Ilana S. Rubel
Ilana S. Rubel

Attorneys for Plaintiff
ACTUATE CORPORATION

Dated: March 12, 2010

HOGAN & HARTSON LLP

By: /S/ Michael J. Shepard
Michael J. Shepard

Attorneys for Defendants
IBM CORPORATION and MRO SOFTWARE,
INC.

ATTESTATION PURSUANT TO GENERAL ORDER 45

I, Ilana Rubel, attest that concurrence in the filing of this document has been obtained from any signatories indicated by a “conformed” signature (/S/) within this e-filed document.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 12th day of March, 2010 at San Francisco, California.

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Dated: March 12, 2010

FENWICK & WEST LLP

By /s/ Ilana S. Rubel

Ilana S. Rubel


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ATTORNEYS AT LAW
SAN FRANCISCO

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[PROPOSED ORDER]

Pursuant to the above Stipulation, IT IS SO ORDERED.

Dated: 03/15/2010

Honorable 
Judge Joseph C. Spero

FENWICK & WEST LLP
ATTORNEYS AT LAW
SAN FRANCISCO