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7 Attorneys for Defendant
 8 SIDENSE CORP.

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

12 KILOPASS TECHNOLOGY INC.,

13 Plaintiff,

14 v.

15 SIDENSE CORP.,

16 Defendant.

Case No. CV 10-02066 SI

**JOINT REQUEST TO CONTINUE
 FURTHER CASE MANAGEMENT
 CONFERENCE**

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1 **JOINT STIPULATION**

2 Pursuant to Civil L.R. 6-1(b), 6-2 and the Court’s Standing Case Management Conference
3 Order, Plaintiff Kilopass Technology, Inc. and Defendant Sidense Corp. (collectively “the
4 Parties”) hereby request that the Further Case Management Conference scheduled for April 29,
5 2014 be continued until after the United States Supreme Court issues a ruling in *Octane Fitness v.*
6 *Icon Health and Fitness*, Dkt. No. 12-1184, which will clarify the law relating to 35 U.S.C. § 285.
7 The parties expect this decision to be published before the end of the Supreme Court’s current
8 term on June 30, 2014.

9 WHEREAS, Sidense Corp. appealed this Court’s denial of its request for attorneys’ fees
10 under 35 U.S.C. § 285;

11 WHEREAS, the Federal Circuit on April 1, 2014 issued the formal mandate following its
12 December 26, 2013 judgment vacating and remanding this Court’s decision denying Sidense
13 Corp.’s request for attorneys’ fees;

14 WHEREAS, this Court on April 3, 2014 set a Further Case Management Conference for
15 Tuesday April 29, 2014;

16 WHEREAS, the only issue to be addressed on remand is whether Sidense Corp. is entitled
17 to attorneys’ fees under 35 U.S.C. § 285;

18 WHEREAS, the United States Supreme Court, in *Octane Fitness*, is considering issues
19 related to 35 U.S.C. § 285 that will likely clarify issues governing the remaining disputes in this
20 lawsuit;

21 WHEREAS, this is the first requested extension following the Federal Circuit’s decision
22 and there are no other scheduled dates besides the Further Case Management Conference;

23 WHEREAS, good cause exists for the requested continuance to avoid wasting the Court’s
24 time and the Parties’ resources briefing issues relating to attorneys’ fees under 35 U.S.C. § 285
25 before the Supreme Court clarifies the appropriate standards for determining relief under that
26 statute;

27 ACCORDINGLY, the Parties request that the Court continue the scheduled Further Case
28 Management Conference until after the Supreme Court rules in *Octane*. The Parties will promptly



1 notify the Court of such ruling and request that the Further Case Management Conference then be
2 scheduled for the next available date on the Court's calendar that allows the Parties reasonable
3 time, e.g., 14 days, to file a Joint Case Management Conference Statement in advance.
4

5 DATED: April 15, 2014

Respectfully submitted,

6 KILPATRICK TOWNSEND & STOCKTON LLP
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8 By: */s/ Robert D. Tadlock*

ROBERT D. TADLOCK

9 Attorneys for Defendant
10 SIDENSE CORP.
11

DURIE TANGRI LLP

12 By: */s/ Alex Feerst*

ALEX FEERST

13 Attorneys for Plaintiff
14 KILOPASS TECHNOLOGY, INC.
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**CERTIFICATION PURSUANT TO CIVIL L.R 5-1(i)(3),
RE E-FILING ON BEHALF OF MULTIPLE SIGNATORIES**

In accord with the Northern District of California’s Civil Local Rule 5-1(i)(3), I attest that concurrence in the filing of this document has been obtained from each of other signatories who are listed on the signature pages. I shall maintain records to support this concurrence for subsequent production for the Court if so ordered, or for inspection upon request by a party until one year after final resolution of the action (including appeal, if any).

April 15, 2014

/s/ Robert D. Tadlock

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATE: 4/16/14



THE HON. SUSAN ILLSTON
UNITED STATES DISTRICT JUDGE

63809274 v1



1 KILPATRICK TOWNSEND & STOCKTON LLP
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22 Case No. CV 10-02066 SI

23 **DECLARATION OF ROBERT D.
24 TADLOCK IN SUPPORT OF JOINT
25 REQUEST TO CONTINUE CASE
26 MANAGEMENT CONFERENCE**



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I, Robert Tadlock, declare that:

1. I am an attorney licensed to practice law in the State of California and am admitted to practice before this Court. I am a partner with the law firm Kilpatrick Townsend & Stockton, and am one of the attorneys representing Sidense Corp. in the above-captioned matters. I make this declaration pursuant to Civil L.R. 6-2(a) on personal knowledge and if called as a witness could and would competently testify to the matters stated herein.

2. Good cause exists for the requested continuance to avoid wasting the Court's time and the Parties' resources briefing issues relating to attorneys' fees under 35 U.S.C. § 285 before the Supreme Court clarifies the appropriate standards for determining relief under that statute in *Octane Fitness v. Icon Health and Fitness*, Dkt. No. 12-1184.

3. This is the first request to modify the Court's schedule since the case returned from the Federal Circuit.

4. The requested continuance would not impact any other scheduled deadlines as no other deadlines have yet been set.

I declare under penalty of perjury under the laws of the United States of America that the foregoing statements are true and correct. Executed this 15th day of April, 2014 at San Francisco, California.

DATED:

Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON LLP

By: /s/ Robert D. Tadlock
ROBERT D. TADLOCK

Attorneys for Defendant
SIDENSE CORP.

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