

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ALIBABA.COM HONG KONG
LIMITED, a Hong Kong Corporation
and ALIABABA.COM, INC.,
a Delaware corporation

Plaintiffs,

v.

P.S. PRODUCTS, INC.,
an Arkansas corporation, and
BILLY PENNINGTON, an
individual,

Defendants.

CASE NO. CV-10-04457 WHA

**PARTIES STIPULATION AND
~~PROPOSED~~ ORDER ON
DEFENDANT'S MOTION TO
DISMISS**

WHEREAS, Plaintiffs Alibaba.com Hong Kong Limited and Alibaba, Inc., (collectively
“Alibaba”) filed this declaratory judgment action on October 1, 2010;

1 WHEREAS, the Defendants P.S. Products, Inc. and Billy Pennington (collectively,
2 “Defendants”) filed their Motion to Dismiss on October 27, 2010;

3 WHEREAS, Plaintiffs filed an Amended Complaint on December 22, 2010;

4 WHEREAS, the Defendants filed their second Motion to Dismiss on January 26, 2011;

5 WHEREAS, a Case Management Conference was held on February 3, 2011 whereby the
6 Court stayed the current case pending the outcome of a decision by the United States District
7 Court for the Eastern District of Arkansas (Case No. 10-cv-1149 JMM)(Dkt. No. 35);

8 WHEREAS, on March 10, 2011 the United States District Court for the Eastern District
9 of Arkansas (Case No. 10-cv-1149 JMM) issued an Order dismissing the sole remaining
10 Defendant for lack of personal jurisdiction (Dkt. No. 36);

11 WHEREAS, on March 15, 2011 this Court issued an Order lifting the stay in this action
12 and directed to the Defendants to withdraw their pending Motion to Dismiss or re-notice the
13 motion (Dkt. No. 37);

14 WHEREAS, the Defendants elect to withdraw their Motion to Dismiss (Dkt. No. 30);

15 WHEREAS, the parties have conferred and agreed that the Defendants’ deadline to file
16 its responsive pleadings to the Plaintiff’s First Amended Complaint shall be April 22, 2011;

17 NOW THEREFORE, IT IS STIPULATED BY THE UNDERSIGNED PARTIES that:

- 18
- 19 1. Defendants’ Second Motion to Dismiss is hereby withdrawn by the Defendants;
 - 20 2. Defendants’ deadline to file it responsive pleadings to the Plaintiff’s First
21 Amended Complaint shall be April 22, 2011.

22 SO STIPULATED.
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: March 15, 2011

FENWICK & WEST LLP

By: /s/ Ryan J. Marton

Ryan J. Marton

Attorneys for Plaintiff Vendio Services, Inc.

Dated: March 15, 2011

STEWART LAW FIRM

By: /s/ Chris H. Stewart

Chris H. Stewart

Attorneys for Defendants
P.S. Products, Inc. and Billy Pennington

1 **ATTESTATION PURSUANT TO GENERAL ORDER 45**

2 I, Chris H. Stewart, attest that concurrence in the filing of this document has been
3 obtained from any signatories indicated by a “conformed” signature (/s/) within this e-filed
4 document.
5

6 I declare under penalty of perjury under the laws of the United States of America that the
7 foregoing is true and correct. Executed this 15th day of March 2011, at Little Rock, Arkansas.

8 STEWART LAW FIRM

9 By: /s/ Chris H. Stewart

10 Chris H. Stewart

11 Attorneys for Defendants
12 P.S. Products, Inc. and Billy Pennington

13
14
15
16
17
18
19
20
21 **~~PROPOSED~~ ORDER**

22
23 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

24
25 Dated: March 15, 2011

26 By: 
Honorable William Alsup