

1 DARREN T. KAPLAN, Esq. (To Be Admitted Pro Hac Vice)
 CHITWOOD HARLEY HARNES LLP
 2 185 Great Neck Road, Suite 340
 Great Neck, NY 11021
 3 Telephone: (516) 773-6090
 Facsimile: (516) 706-0497
 4 Email: dkaplan@chitwoodlaw.com

5 Counsel for Plaintiff Advanced Internet Technologies, Inc.

6 ROBERT C. SCHUBERT (S.B.N. 62684)
 7 WILLEM F. JONCKHEER (S.B.N. 178748)
 DUSTIN L. SCHUBERT (S.B.N. 254876)
 8 SCHUBERT JONCKHEER & KOLBE LLP
 Three Embarcadero Center, Suite 1650
 9 San Francisco, CA 94111
 Telephone: (415) 788-4220
 10 Facsimile: (415) 788-0161
 11 Email: dschubert@schubertlawfirm.com

12 Local Counsel for Plaintiff Advanced Internet Technologies, Inc.

13 **UNITED STATES DISTRICT COURT**
 14 **NORTHERN DISTRICT OF CALIFORNIA**

16 ADVANCED INTERNET TECHNOLOGIES,
 17 INC.,

18 Plaintiff,

19 v.

20 DELL, INC. and DELL FINANCIAL
 21 SERVICES, INC.,

22 Defendants.

Case No. CV 10 80078MISC

**REPLY IN SUPPORT OF MOTION TO
 HOLD NON-PARTY EXPONENT, INC. IN
 CONTEMPT OF SUBPOENAS AND TO
 COMPEL COMPLIANCE**

FRCP 45(e)

**(Master Case Pending in the Eastern District
 of North Carolina, Case No. 5:07-CV-426-H)**

Date: May 7, 2010

Time: 9:00 a.m.

1 On April 1, 2010, plaintiff Advanced Internet Technologies, Inc. (“AIT”) filed its
2 motion to hold non-party Exponent, Inc. (“Exponent”) in contempt, and to compel compliance
3 with a subpoena issued in the underlying action.

4 In its responding brief, Exponent does not generally dispute its obligation to produce
5 documents or a witness in response to the subpoena issued by counsel for AIT. *See* Exponent,
6 Inc.’s Response to Motion for Contempt (“Exponent’s Resp.”), p. 1. In fact, counsel for
7 Exponent concedes that it “could have been more diligent in identifying the responsive materials,
8 producing them to AIT, and conferring with AIT’s counsel to better define the scope of
9 testimony sought from Exponent.” *Id.*

10 Exponent states that it is in the process of producing documents that are not privileged,
11 and after AIT’s counsel has reviewed the documents, Exponent’s counsel will work with AIT’s
12 counsel to ensure that an appropriate witness is produced for deposition. *Id.*, pp. 1-2. While AIT
13 certainly agrees that Exponent could have been more diligent in responding to the subpoena, AIT
14 does not wish to burden this Court further with an additional motion to punish Exponent, so long
15 as documents responsive to the subpoena continue to be forthcoming.

16 Exponent also requests that this Court adopt the terms of the stipulated protective order
17 entered in the underlying case to protect information it intends to produce. *Id.*, p. 4. AIT agrees
18 that the stipulated protective order from the underlying case should be entered for purposes of
19 this proceeding. Therefore, AIT has filed a proposed order herewith, and hereby requests that
20 the Court adopt the stipulated protective order entered in the underlying action as governing
21 information produced by Exponent herein.

1 Dated: April 23, 2010

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3 SCHUBERT JONCKHEER & KOLBE LLP

4 _____
5 /s/

6 Willem F. Jonckheer
7 Three Embarcadero Center, Suite 1650
8 San Francisco, CA 94111
9 Telephone: (415) 788-4220
10 Facsimile: (415) 788-0161

11 Local Counsel for Plaintiff Advanced
12 Internet Technologies, Inc.

13 Darren T. Kaplan
14 CHITWOOD HARLEY HARNES LLP
15 185 Great Neck Road, Suite 340
16 Great Neck, NY 11021
17 Telephone: (516) 773-6090
18 Facsimile: (516) 706-0497

19 Counsel for Plaintiff Advanced Internet
20 Technologies, Inc.