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Attorneys for Plaintiff
 EIT HOLDINGS LLC

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

19 EIT HOLDINGS, LLC, a Delaware company
 20 Plaintiff and Counterclaim Defendant,
 21 v.
 22 THESTREET.COM, INC., a Delaware corporation
 23 Defendant and Counterclaim Plaintiff.

Case No. 3:11-cv-02469-JCS

**JOINT STIPULATION AND [PROPOSED]
 ORDER STAYING CASE PENDING APPEAL**

Ctrm: G
 Judge: Honorable Joseph C. Spero

1 **JOINT STIPULATION**

2 On December 10, 2010, EIT filed a patent infringement action against multiple defendants in the
3 Northern District of California (C-10-05623-WHA) before the Honorable William H. Alsup. That action
4 alleged that each defendant infringed claims 40 and 41 of U.S. Patent No. 5,828,837. After the initial
5 case management conference, Judge Alsup held that the defendants, including TheStreet, Inc. f/k/a The
6 Street.com Inc. ("TheStreet), were improperly joined and dismissed all but the first-named defendant
7 (Yelp! Inc.). EIT thereafter filed this action against The Street alleging infringement of the same claims.

8 At the initial case management conference in this action, the parties informed the Court that
9 Judge Alsup had set a claim construction hearing in the originally-filed Yelp case for early October 2011.
10 The parties accordingly asked the Court to continue the case management conference and to postpone
11 setting a schedule until Judge Alsup had had time to consider EIT and Yelp's respective positions on
12 what the claims mean. The Court agreed and set another case management conference. At that
13 subsequent conference held on January 13, 2012, the parties explained the current proceedings before
14 Judge Alsup, including that Yelp had filed a motion for summary judgment of invalidity. The Court
15 decided again to set a further case management conference.

16 On January 20th, Judge Alsup issued an order on the summary judgment motion brought by Yelp,
17 holding that claims 40 and 41 are invalid. EIT already has filed a notice of appeal that indicates its intent
18 to appeal *inter alia* the summary judgment order entered in the Yelp case. If affirmed, however, there is
19 no dispute that that summary judgment order would completely resolve the case against TheStreet
20 pending before this Court. The parties therefore respectfully request that the Court stay this case pending
21 the resolution of EIT's appeal of the summary judgment order entered in *EIT Holdings, LLC v. Yelp!*
22 *Inc.*, case no. 3:10-cv-05623-WHA (N.D. Cal.).

23 NOW, THEREFORE, IT IS HEREBY AGREED AND STIPULATED THAT:

24 The undersigned parties agreed to stay this case, *EIT Holdings, LLC v. TheStreet, Inc. f/k/a The*
25 *Street.com Inc.*, case no. 3:11-cv-02469-JCS, until the fifth court day after EIT Holdings, LLC's appeal
26 of the summary judgment order in *EIT Holdings, LLC v. Yelp! Inc.*, case no. 3:10-cv-05623-WHA (N.D.
27 Cal.) has been finally adjudicated, which shall be the date on which the last appeal or certiorari petition
28 with respect to the summary judgment order has been denied, dismissed, withdrawn, or otherwise

1 determined.

2 Dated: January 25, 2012

GOLDSTEIN & LIPSKI, PLLC

3 */s/ Edward W. Goldstein*

4 By: _____

EDWARD W. GOLDSTEIN

5 Attorneys for Plaintiff and Counterclaim
6 Defendant EIT Holdings, LLC

7
8 Dated: January 25, 2012

DURIE TANGRI LLP

9 */s/ Ryan M. Kent*

10 By: _____

RYAN M. KENT

11 Attorneys for Defendant and Counterclaim
12 Plaintiff TheStreet, Inc. f/k/a The Street.com
13 Inc.

14 **FILER'S ATTESTATION**

15 I, Ryan Kent, am the ECF User whose identification and password are being used to file this
16 document. Pursuant to General Order 45.X.B, I hereby attest that counsel for Plaintiff and Counterclaim
17 Defendant EIT Holdings, LLC has concurred in this filing.

18 */s/ Ryan M. Kent*

19 _____

RYAN M. KENT

[PROPOSED] ORDER

WHEREAS, Plaintiff and Counterclaim Defendant EIT Holdings, LLC and Defendant and Counterclaim Plaintiff TheStreet, Inc. f/k/a The Street.com Inc. have agreed to stay this case, *EIT Holdings, LLC v. The Street.com Inc.*, United States District Court, Northern District of California, case no. 3:11-cv-02469-JCS until the fifth court day after EIT Holdings, LLC’s appeal of the summary judgment order in *EIT Holdings, LLC v. Yelp! Inc.*, case no. 3:10-cv-05623-WHA (N.D. Cal.) has been finally adjudicated, which shall be the date on which the last appeal or certiorari petition with respect to the summary judgment order has been denied, dismissed, withdrawn, or otherwise determined.

NOW, THEREFORE, IT IS SO ORDERED.

DATED: January 26, 2012

HONORABLE JUDGE
United States District Court
Northern District of California
PERO
Judge Joseph C. Spero