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6 Attorneys for Defendant  
 7 STRATEGIC MARKS, LLC

8 **UNITED STATES DISTRICT COURT**  
 9 **NORTHERN DISTRICT OF CALIFORNIA**  
 10 **SAN FRANCISCO DIVISION**

12 MACY'S INC and MACY'S.COM, INC.,

13 Plaintiffs,

14 v.

15 STRATEGIC MARKS, LLC,

16 Defendant.

CASE NO. 3:11-cv-06198-SC

**JOINT STIPULATION AND REQUEST  
 TO CONTINUE TRIAL DATE AND  
~~[PROPOSED]~~ ORDER ON JOINT  
 STIPULATION TO CONTINUE TRIAL  
 DATE**

THE HONORABLE SAMUEL CONTI

18 STRATEGIC MARKS, LLC,

19 Counter-Claimant,

20 v.

21 MACY'S INC and MACY'S.COM, INC.,

22 Counter-Defendants.

24 This stipulation and request is made and entered into by and among plaintiffs Macy's, Inc. and  
 25 Macy's.com, Inc. (collectively, "Macy's") and defendant Strategic Marks, LLC ("Strategic").

26 WHEREAS, this matter is presently set for trial on November 26, 2012 at 9:30 A.M. before this  
 27 Court;

28 WHEREAS, lead counsel for defendant and counter-claimant, Benjamin Ashurov, was retained

1 to represent Strategic on July 3, 2012, and previously has had no involvement with Strategic or this  
2 matter;

3 WHEREAS, Strategic's prior counsel in this matter abruptly withdrew its representation of  
4 Strategic in late June, 2012 and, despite numerous requests, failed to turn over any files to Strategic or  
5 Mr. Ashurov;

6 WHEREAS, Strategic's prior counsel failed to propound any discovery requests on Macy's or  
7 depose any witnesses in connection with this matter, despite the fact that discovery in this action is set  
8 to close on September 26, 2012;

9 WHEREAS, Strategic's prior counsel failed to take other actions (such as serving Strategic's  
10 Initial Disclosures or preparing timely objections and responses to discovery propounded on Strategic  
11 by Macy's) necessary for the adequate representation of Strategic in this action;

12 WHEREAS, Mr. Ashurov has sought (and been granted by Macy's) an extension of time to (1)  
13 provide Macy's with Strategic's Initial Disclosures and (2) prepare objections and responses to Macy's  
14 previously propounded discovery requests that shall be deemed by the parties to have been timely  
15 served;

16 WHEREAS, Mr. Ashurov (1) propounded a significant number of discovery requests on  
17 Macy's in a first round of discovery served August 7, 2012, (2) believes it is extremely likely he will  
18 need to propound a second round of discovery requests on Macy's after obtaining and reviewing  
19 Macy's responses to Strategic's first round of discovery requests, and (3) has insufficient time before  
20 the September 26, 2012 close of discovery deadline to propound and obtain responses to a the second  
21 round of discovery requests;

22 WHEREAS, Mr. Ashurov requires a reasonable amount of time to obtain responses to written  
23 discovery requests, review and evaluate the information and documents obtained, to take depositions,  
24 and complete his preparations for trial in order to adequately defend Strategic and prosecute Strategic's  
25 counter-claims in this action;

26 WHEREAS, as a result of the foregoing, Mr. Ashurov cannot adequately prepare this case for  
27 trial under the current schedule, and Strategic will be severely prejudiced unless the trial date is  
28

1 continued;

2 WHEREAS, Mr. Ashurov has advised counsel for Macy's of the foregoing, and Macy's joins in  
3 Strategic's request for a continuance of the trial date and all associated pretrial dates;

4 WHEREAS, in light of the foregoing, the parties agree that there is exceptionally good cause to  
5 continue the trial date in this action and, in the interest of justice, the November 26, 2010 trial date  
6 should be continued to April 22, 2013, or such other date as the court deems appropriate.

7 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among all  
8 parties, and the court's approval as to the following is hereby requested:

- 9 • That the trial date in this matter, currently set for November 26, 2012 at 9:30 A.M. be  
10 continued to April 22, 2013 at 9:30 A.M. or such other date that the Court deems appropriate.  
11 • All discovery shall be completed and all depositions taken by February 22, 2013.  
12 • The last date for hearing on motions shall be March 22, 2013 at 10:00 A.M.  
13 • The pretrial conference shall be held on April 12, 2013 at 10 A.M.  
14 • The remaining provisions of the Status Conference Order (Docket 41) shall remain in  
15 effect.  
16

17 DATED: August 13, 2012.

KB ASH LAW GROUP

19 By /s/ Benjamin Ashurov  
20 BENJAMIN ASHUROV  
21 Attorneys for Defendant  
22 STRATEGIC MARKS, LLC  
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24 [ADDITIONAL SIGNATURES TO FOLLOW]  
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DATED: August 13, 2012.

AMSTER, ROTHSTEIN & EBENSTEIN LLP

By /s/ Anthony F. Lo Cicero  
ANTHONY F. LO CICERO  
Attorneys for Plaintiff  
Macy's, Inc.

DATED: August 13, 2012.

HANSEN BRIDGETT LLP

By /s/ Garner K. Weng  
GARNER K. WENG  
Attorneys for Plaintiff  
Macy's.com, Inc.

1                    **[PROPOSED] ORDER ON JOINT STIPULATION TO CONTINUE TRIAL DATE**

2                    Having duly considered the Joint Stipulation to Continue Trial Date filed by the parties to this  
3 action on August 13, 2013 (the “Joint Stipulated Continuance”), and good cause showing:

4                    IT IS HEREBY ORDERED THAT for all the reasons set forth in the Joint Stipulated  
5 Continuance, the Court’s May 4, 2012 Status Conference Order Setting Times for Compliance with  
6 Certain Rules of Court be AMENDED as follows:

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- 8                    1.        The trial date in this matter is set for April 22, 2013 at 9:30 A.M.
  - 9                    2.        All discovery shall be completed and all depositions taken by February 22, 2013.
  - 10                   3.        The last date for hearing on motions shall be March 22, 2013 at 10:00 A.M.
  - 11                   4.        The pretrial conference to be held on April 12, 2013 at 10 A.M.
  - 12                   5.        The remaining provisions of the Status Conference Order (Docket 41) shall remain in  
13 effect.

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16                   **IT IS SO ORDERED.**

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18                   Dated:                    August 24                    , 2012.



1 **CERTIFICATE OF SERVICE**

2 I am a citizen of the United States and a resident of the State of California, over the age of  
3 eighteen, and not a party to this action. My business address is KB Ash Law Group, 5674 Sonoma  
4 Drive, Suite A, Pleasanton, CA 94566.

5 On August 13, 2012, I served the following document(s): JOINT STIPULATION AND  
6 REQUEST TO CONTINUE TRIAL DATE AND [PROPOSED] ORDER ON JOINT STIPULATION  
7 TO CONTINUE TRIAL DATE, by the methods indicated below:

8 Addressed to:

9 Garner Kimleon Weng  
10 Hanson Bridgett LLP  
11 425 Market Street  
12 26th Floor  
13 San Francisco, CA 94105

14 Attorneys for MACY’S.COM, INC.

15 Anthony Francis Lo Cicero  
16 Amster, Rothstein & Ebenstein  
17 90 Park Avenue  
18 New York, NY 10016

19 Attorneys for MACY’S, INC.

20 Were served by the following means:

21 [X] BY FIRST CLASS MAIL: I placed the above documents in a sealed envelope for deposit in  
22 the United States Postal Service, with first class postage fully prepaid, and that envelope was placed  
23 for collection and mailing on that date following ordinary business practices.

24 [X] BY ELECTRONIC MAIL: cwalters@hansonbridgett.com, gweng@hansonbridgett.com,  
25 alocicero@arelaw.com, crothstein@arelaw.com, hpekowsk@arelaw.com, capasso@arelaw.com,  
26 Macys-StrategicMarks@arelaw.com.

27 I declare under penalty of perjury under the laws of the United States that the foregoing is true and  
28 correct. Executed on August 13, 2012, at Pleasanton, California.

Dated: August 13, 2012

Respectfully submitted,

By: /s/ Benjamin Ashurov  
Benjamin Ashurov, Esq.

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KB ASH LAW GROUP  
Attorneys for Defendant  
STRATEGIC MARKS, LLC

