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 8 Betsy S. Atkins, John A. Kelley, D. Scott Mercer,
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 9 and Nominal Defendant Polycom, Inc.

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 SAN FRANCISCO DIVISION

14	IN RE POLYCOM, INC. DERIVATIVE)	Lead Case No.: 3:13-cv-3880-SC
15	LITIGATION,)	(Derivative Action)
16	This Document Relates To:)	STIPULATION AND PROPOSED
17	ALL ACTIONS)	ORDER CONTINUING CASE
18)	MANAGEMENT CONFERENCE
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1 Pursuant to N.D. Cal. Civil Local Rules 6-2 and 7-12, the parties respectfully submit the
2 following Stipulation and [Proposed] Order Continuing the Initial Case Management Conference
3 currently set for January 16, 2015, at 10:00 a.m.

4 **WHEREAS**, on March 27, 2014, the Court entered a scheduling order (ECF No. 46) (the
5 “Scheduling Order”): (1) requiring plaintiffs Ralph Saraceni and James Donnelly (“Plaintiffs”) to
6 file an amended shareholder derivative complaint by no later than April 4, 2014; and (2)
7 continuing the Initial Case Management Conference to August 22, 2014;

8 **WHEREAS**, pursuant to the Scheduling Order, Plaintiffs filed their Consolidated First
9 Amended Shareholder Derivative Complaint on April 4, 2014 (ECF No. 47) (the “Amended
10 Complaint”);

11 **WHEREAS**, pursuant to the Scheduling Order, defendants Andrew M. Miller, Betsy S.
12 Atkins, John A. Kelley, D. Scott Mercer, William A. Owens, and Kevin T. Parker, as well as
13 nominal defendant Polycom, Inc. (collectively, “Defendants”), filed motions to dismiss the
14 Amended Complaint on May 23, 2014 (ECF Nos. 48, 51) (the “Motions to Dismiss”), with a
15 hearing set for August 22, 2014;

16 **WHEREAS**, on July 10, 2014, the Court entered a modified scheduling order (ECF No.
17 57) (the “Modified Scheduling Order”): (1) requiring Plaintiffs to file their omnibus opposition
18 to Defendants’ Motions to Dismiss no later than August 8, 2014; (2) requiring Defendants to file
19 reply briefs in support of their Motions to Dismiss no later than September 5, 2014; (3)
20 continuing the hearing date for Defendants’ Motions to Dismiss to September 19, 2014; and (4)
21 vacating the Initial Case Management Conference set for August 22, 2014;

22 **WHEREAS**, also on July 10, 2014, the Court rescheduled the Initial Case Management
23 Conference to November 14, 2014 (ECF No. 58);

24 **WHEREAS**, pursuant to the Modified Scheduling Order, Plaintiffs filed their Opposition
25 to Defendants’ Motions to Dismiss on August 8, 2014 (ECF No. 59), and Defendants filed their
26 reply briefs in support of their Motions to Dismiss on September 5, 2014 (ECF Nos. 60, 61);

27 **WHEREAS**, on September 16, 2014, the Court issued notice that it would decide
28 Defendants’ Motions to Dismiss on the papers, and vacated the hearing previously set for

1 September 19, 2014 (ECF No. 62);

2 **WHEREAS**, on October 31, 2014, the Court continued the Initial Case Management
3 Conference to December 12, 2014 (ECF No. 64), and on November 24, 2014, the Court further
4 continued the Initial Case Management Conference to January 16, 2015 (ECF No. 66);

5 **WHEREAS**, subject to the Court's approval, the parties respectfully request that the
6 Court continue the Initial Case Management Conference currently set for January 16, 2015, while
7 the Court considers Defendants' pending Motions to Dismiss, to be reset to a date and time after
8 the Court issues its order on Defendants' pending Motions to Dismiss.

9 **NOW, THEREFORE**, subject to the Court's approval, the parties hereby stipulate and
10 agree as follows:

- 11 (1) The Initial Case Management Conference currently set for January 16, 2015, at
12 10:00 a.m., is hereby vacated, and the Initial Case Management Conference shall
13 be set to such date and time as the Court may order after the Court issues its order
14 on Defendants' pending Motions to Dismiss.

15 **IT IS SO STIPULATED.**

16 Dated: January 2, 2015

Respectfully submitted,

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21 By: /s/ Keith E. Eggleton
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24 *Attorneys for Defendants Betsy S. Atkins, John A.*
25 *Kelley, D. Scott Mercer, William A. Owens, Kevin*
26 *T. Parker, and Nominal Defendant Polycom, Inc.*

1 Dated: January 2, 2015

By: /s/ Philip T. Besirof
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Attorneys for Defendant Andrew M. Miller

9 Dated: January 2, 2015

By: /s/ Nathan R. Hamler
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Attorneys for Plaintiffs

16 *I, Keith E. Eggleton, am the ECF user whose ID and password are being used to file this*
17 *Stipulation and [Proposed] Order Continuing Case Management Conference. In compliance*
18 *with Civil Local Rule 5-1(i)(3), I hereby attest that Philip T. Besirof and Nathan R. Hamler have*
19 *concurred in this filing.*

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DECLARATION OF KEITH E. EGGLETON

I, Keith E. Eggleton, declare:

1. I am a member of Wilson Sonsini Goodrich & Rosati, P.C., counsel for defendants Betsy S. Atkins, John A. Kelley, D. Scott Mercer, William A. Owens, Kevin T. Parker, and nominal defendant Polycom, Inc. I make this declaration in support of the parties' Stipulation and [Proposed] Order Continuing Case Management Conference. The parties seek to continue the Initial Case Management Conference until after the Court has ruled on Defendants' pending Motions to Dismiss. The parties agree that a continuance is reasonable and appropriate.

2. This is the parties' sixth request for extension of time with respect to the Initial Case Management Conference since this derivative action was consolidated in October 2013. The parties' previous stipulated requests to continue the Initial Case Management Conference were filed on December 9, 2013 (ECF No. 35), March 27, 2014 (ECF No. 45), July 10, 2014 (ECF No. 56), October 30, 2014 (ECF No. 63), and November 24, 2014 (ECF No. 65). The Court granted these five previous requests (*see* ECF Nos. 36, 46, 57, 64, 66).

3. The requested continuance will not impact any other deadlines or dates set by the Court.

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 2, 2015 in Palo Alto, California.

By: /s/ Keith E. Eggleton
Keith E. Eggleton

~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

The case management conference is continued to Friday, 02/20/2015, at 10:00 a.m.

Dated: 01/05/2015


THE HONORABLE SAMUEL CONTI
United States District Judge