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Robert Frenzel

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA

16 ROBERT FRENZEL, individually and on  
17 behalf of all others similarly situated,

18 Plaintiff,

19 vs.

20 ALIPHCOM d/b/a JAWBONE,

21 Defendant.

Case No. 3:14-cv-03587 WHO

**STIPULATION AND ORDER  
CONTINUING HEARING ON  
DEFENDANT ALIPHCOM DBA  
JAWBONE'S MOTION TO DISMISS  
COMPLAINT AND MODIFYING  
BRIEFING SCHEDULE**

Date: December 10, 2014  
Time: 2:00 p.m.  
Judge: Hon. William H. Orrick  
Dept.: Courtroom 2, 17th Floor

Date of Filing: August 7, 2014

24 Pursuant to Civil Local Rule 6-1, plaintiff Robert Frenzel ("Plaintiff") and defendant  
25 AliphCom dba Jawbone ("Defendant," and jointly with Plaintiff, the "Parties"), through their  
26 respective counsel of record herein, hereby agree and stipulate to the following:  
27

**STIPULATION**

WHEREAS, on or about August 7, 2014, Plaintiff filed the complaint in the above-captioned action (the “Complaint”);

WHEREAS, after Defendant indicated its intent to file a Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12 in response to the Complaint, the Parties submitted a stipulation and proposed order on September 11, 2014, requesting an extended briefing schedule;

WHEREAS, on September 12, 2014, the Court issued an Order setting the hearing on Defendant’s Motion to Dismiss for December 10, 2014, at 2:00 p.m., and requiring the motion to be filed by September 29, 2014, the opposition to be filed by November 3, 2014, and the reply, if any, to be filed by November 21, 2014;

WHEREAS, Defendant filed its Motion to Dismiss on September 29, 2014;

WHEREAS, Defendant’s counsel is no longer available for the hearing on December 10, 2014, due to the scheduling of depositions in another matter that cannot reasonably be moved, and therefore the Parties have met and conferred on a mutually agreeable continuance of the hearing and corresponding adjustment to the briefing schedule;

NOW, THEREFORE, the Parties hereby stipulate and jointly move the Court for the following continuance of the hearing on Defendant’s Motion to Dismiss and adjustment to the briefing schedule:

1. Plaintiff shall file and serve his opposition papers by November 10, 2014;
2. Defendant shall file and serve its reply papers, if any, by November 25, 2014; and
3. The hearing shall be continued to December 17, 2014 at 2:00 p.m.

Dated: October 28, 2014

BURSOR & FISHER, P.A.

By           /s/ L. Timothy Fisher            
L. TIMOTHY FISHER

Attorneys for Plaintiff, Robert Frenzel

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Dated: October 28, 2014

VINSON & ELKINS LLP

By           /s/ Mortimer H. Hartwell            
MORTIMER H. HARTWELL

Attorneys for Defendant, AliphCom dba Jawbone

**FILER'S ATTESTATION**

I, Mortimer H. Hartwell, am the ECF user whose identification and password are being used to file this Stipulation and [Proposed] Order Continuing Hearing on Defendant AliphCom dba Jawbone's Motion to Dismiss Complaint and Modifying Briefing Schedule. Pursuant to L.R. 5-1(i)(3), I hereby attest that concurrence in the electronic filing of this document has been obtained from each of the other signatories.

Dated: October 28, 2014

By           /s/ Mortimer H. Hartwell            
Mortimer H. Hartwell

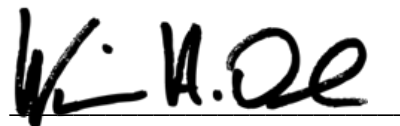
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**ORDER**

Pursuant to the Stipulation between the Parties, it is hereby ORDERED that Plaintiff's opposition to Defendant AliphCom dba Jawbone's Motion to Dismiss shall be filed no later than November 10, 2014; and the reply, if any, shall be filed no later than November 25, 2014. This matter will be heard on **December 17, 2014** on the law and motion calendar at 2:00 p.m. in Courtroom 2.

**IT IS SO ORDERED.**

Dated: October 30, 2014



Hon. William H. Orrick