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Attorneys for Plaintiffs
10 [24]7.ai, Inc. and 24/7 Customer
International Holdings, Ltd.

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Attorneys for Defendant
LivePerson, Inc.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO

16 [24]7.ai, Inc. and 24/7 Customer International
Holdings, Ltd.,

17 Plaintiffs,

18 v.

19 LivePerson, Inc.,

20 Defendant.

Case No. 3:15-CV-02897-JST (KAW)
(Lead Case)

Case No. 3:15-CV-05585-JST (KAW)

21 **STIPULATION AND ~~PROPOSED~~**
ORDER RE: STAY OF PATENT
ACTIONS

1 **STIPULATION**

2 WHEREAS, in Case Nos. 3:15-CV-02897-JST (KAW) and 3:15-CV-05585-JST (KAW)
3 (the “Patent Actions”), Plaintiffs [24]7.ai, Inc. and 24/7 Customer International Holdings, Ltd.
4 (“[24]7”) presently assert infringement of two patents, including U.S. Patent No. 9,077,804 (the
5 “’804 Patent”);

6 WHEREAS, Defendant LivePerson, Inc. (“LivePerson”) challenged the validity of
7 the ’804 Patent in an *inter partes* review proceeding before the Patent Trial and Appeal Board
8 (IPR2017-00610), and the Board instituted *inter partes* review of claims 1-3, 5, 8, 9, and 16 of
9 the ’804 Patent;

10 WHEREAS, the *inter partes* review could invalidate certain of the asserted claims of
11 the ’804 Patent, rendering unnecessary further proceedings on those claims in the Patent Actions;

12 WHEREAS, the Court’s February 8, 2018 Case Management Order (Dkt. No. 178) set the
13 trial date for the Patent Actions to occur after the resolution of post-trial motions in Case No.
14 3:17-cv-01268-JUST (KAW) (the “Trade Secret Action”);

15 The parties, subject to the approval of the Court, hereby agree and stipulate as follows:

- 16 1. Following the close of fact discovery, Case Nos. 3:15-CV-02897-JST (KAW)
17 and 3:15-CV-05585-JST (KAW) shall be stayed. All pending deadlines in the
18 Patent Actions other than the close of fact discovery are vacated, including the
19 following:

- 20
- 21 • [24]7 to reduce asserted patent claims in Patent Actions to no more
22 than four claims per patent
 - 23 • Opening expert reports in Patent Actions and LivePerson to reduce
24 asserted prior art references to no more than five per patent
 - 25 • Rebuttal expert reports in Patent Actions
 - 26 • Close of expert discovery
 - 27 • Last day to file motion to compel expert discovery
 - 28 • Dispositive motion deadline
 - Dispositive motion opposition deadline
 - Dispositive motion reply deadline
 - *Daubert* motion deadline
 - *Daubert* opposition deadline
 - *Daubert* reply deadline
 - Joint pretrial statement due

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- In limine motions due
- Pretrial conference
- Parties to deliver three sets of pre-marked exhibits to the Courtroom Deputy
- Trial

2. Upon resolution of post-trial motions in Case No. 3:17-cv-01268-JST (KAW), the Court will lift the stay on the Patent Actions and set a Case Management Conference. The parties shall submit a Joint Case Management Statement and Proposed Order that includes their proposed schedule(s) for [24]7 to amend its selection of asserted claims, LivePerson to select its asserted prior art references, expert reports and discovery, summary judgement motions, and trial in the Patent Actions. Plaintiff [24]7 may amend its selection of asserted claims to assert no more than four claims per asserted patent. [24]7 must select the four claims per asserted patent from the list of asserted claims identified in [24]7's Identification of Asserted Claims, dated September 15, 2016.

SO STIPULATED.

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Dated: February 16, 2018

SHARRE LOTFOLLAHI
KIRKLAND & ELLIS LLP

By: /s/ Sharre Lotfollahi
Sharre Lotfollahi

Attorneys for Plaintiff
LivePerson, Inc.

Dated: February 16, 2018

GEOFFREY H. YOST
O'MELVENY & MYERS LLP

By: /s/ Geoffrey H. Yost
Geoffrey H. Yost

Attorneys for Defendant
[24]7.ai, Inc.

ATTESTATION

Pursuant to Civil Local Rule 5-1(i)(3), I hereby attest that concurrence in the filing of this document has been obtained from Sharre Lotfollahi of Kirkland & Ellis, counsel for LivePerson.

Dated: February 16, 2018

O'MELVENY & MYERS LLP

By: /s/ Geoffrey H. Yost
Geoffrey H. Yost

1 **ORDER**

2 1. Following the close of fact discovery, Case Nos. 3:15-CV-02897-JST (KAW) and
3 3:15-CV-05585-JST (KAW) shall be stayed. All pending deadlines in the Patent
4 Actions other than the close of fact discovery are vacated, including the following:

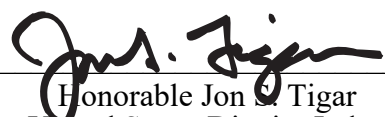
- 5 • [24]7 to reduce asserted patent claims in Patent Actions to no more
6 than four claims per patent
- 7 • Opening expert reports in Patent Actions and LivePerson to reduce
8 asserted prior art references to no more than five per patent
- 9 • Rebuttal expert reports in Patent Actions
- 10 • Close of expert discovery
- 11 • Last day to file motion to compel expert discovery
- 12 • Dispositive motion deadline
- 13 • Dispositive motion opposition deadline
- 14 • Dispositive motion reply deadline
- 15 • *Daubert* motion deadline
- 16 • *Daubert* opposition deadline
- 17 • *Daubert* reply deadline
- 18 • Joint pretrial statement due
- 19 • In limine motions due
- 20 • Pretrial conference
- 21 • Parties to deliver three sets of pre-marked exhibits to the Courtroom
22 Deputy
- 23 • Trial

24 2. Upon resolution of post-trial motions in Case No. 3:17-cv-01268-JST (KAW), the
25 Court will lift the stay on the Patent Actions and set a Case Management Conference.
26 The parties shall submit a Joint Case Management Statement and Proposed Order that
27 includes their proposed schedule(s) for [24]7 to amend its selection of asserted claims,
28 LivePerson to select its asserted prior art references, expert reports and discovery,
summary judgement motions, and trial in the Patent Actions. Plaintiff [24]7 may
amend its selection of asserted claims to assert no more than four claims per asserted
patent. [24]7 must select the four claims per asserted patent from the list of asserted
claims identified in [24]7's Identification of Asserted Claims, dated September 15,
2016.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

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Dated: February 20 , 2018



Honorable Jon S. Tigar
United States District Judge
Northern District of California