

1 Pursuant to Local Rule 6-1, Plaintiff LivePerson, Inc. (“LivePerson”) and Defendant [24]7.ai,
2 Inc. (“[24]7”), and collectively with LivePerson, “the Parties”), subject to the Court’s approval and
3 Order, stipulate to enlarge time for the Parties to serve supplemental expert reports and complete
4 associated expert depositions. The Parties seek this enlargement in order to allow the Parties to
5 evaluate and conference regarding the Court’s Order Regarding Motions to Exclude Expert
6 Testimony, issued earlier today, November 30, 2018 without prejudice to either or both Parties
7 seeking further relief if appropriate or to taking any positions with respect thereto.

8 **I. PROCEDURAL HISTORY**

9 On October 26, 2018, based on a determination that the decision in *E.J. Brooks Company v.*
10 *Cambridge Security Seals*, 31 N.Y.3d 441 (2018) was a change in law and in response to
11 LivePerson’s request, this Court “grant[ed] LivePerson’s request to allow Dr. Choi to supplement his
12 report.” ECF 484 at 29. In accordance with that determination, the parties subsequently submitted a
13 stipulation that included deadlines for service of that supplemental report, for service of a rebuttal
14 report, and to complete additional depositions on those reports, which was entered as an order by the
15 Court. ECF 491. That stipulated order set Tuesday, December 4, 2018 as the deadline for
16 LivePerson to serve a supplemental report from Dr. Choi, January 15, 2019 as the deadline to serve a
17 rebuttal report, and January 25, 2019 as the deadline to complete associated depositions. *Id.*

18 Earlier today, November 30, 2018, the Court issued an order granting [24]7’s Motion to
19 Exclude Certain Testimony of Dr. William Choi. ECF 498 (“*Daubert* Order”). Given the pending
20 deadline for service of Dr. Choi’s supplemental expert report, the Parties met and conferred on
21 November 30, 2018 regarding a brief extension of the supplemental report deadlines in order to
22 permit the Parties to evaluate and conference regarding the Court’s *Daubert* Order. *See* L.R. 37-1.
23 The Parties agreed on a one-week extension of those deadlines, subject to the Court’s approval,
24 without prejudice to either or both Parties seeking further relief if appropriate or to taking any
25 positions with respect thereto.

26 **II. PROPOSED SCHEDULE**

27 The Parties now stipulate to the request to enlarge time, as set forth below:
28

| Event | Current Deadline¹ | Proposed Deadline |
|---|-------------------------------------|--------------------------|
| Choi supplemental report | December 4, 2018 | December 11, 2018 |
| Stuckwisch supplemental report | January 15, 2018 | January 22, 2018 |
| Completion of further depositions on supplemental reports | January 25, 2019 | February 1, 2019 |

The Parties make this Stipulation without prejudice to requests for further relief or to either or both Parties' positions with respect to the Court's *Daubert* Order. For the foregoing reasons, the Parties respectfully request this Court grant this stipulated motion to enlarge time for supplemental expert discovery as set forth above in accordance with this stipulation.

Dated: November 30, 2018

KIRKLAND & ELLIS LLP

By: /s/ Michael W. De Vries

Michael W. De Vries

Attorney for
LIVEPERSON, INC.

Dated: November 30, 2018

O'MELVENY & MYERS LLP

By: /s/ Darin W. Snyder

Darin W. Snyder

Attorney for
[24]7.AI, INC.

¹ ECF 491.

1 **ATTESTATION**

2 Pursuant to Local Rule 5-1(i)(3), I hereby attest that concurrence in the filing of this
3 document has been obtained from Darin W. Snyder.

4 */s/ Michael W. De Vries*

5 _____
6 Michael W. De Vries

7
8 **[PROPOSED] ORDER**

9 PURSUANT TO STIPULATION, IT IS SO ORDERED.

10 Dated: December 3, 2018

11 _____
12 
13 Hon. Jon S. Tigar
14 United States District Judge