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11 **UNITED STATES DISTRICT COURT**
 12 **NORTHERN DISTRICT OF CALIFORNIA**

15 VALDEZ,)	Case No. C 07-06496 CW
)	
16 Plaintiff,)	STIPULATION TO CONTINUE CASE
)	MANAGEMENT CONFERENCE
17 v.)	
)	
18 M-QUBE, INC. et al.,)	
)	
19 Defendants.)	
)	
20)	
21)	
22)	
23)	

24 The Parties in the above action hereby stipulate and agree to the entry of an Order
 25 Continuing the Case Management Conference presently set for November 17, 2009 at 2:30 p.m. and
 26 in support of the requested relief state:

27 1. This action is related to *Jiran v. AT&T Mobility*, Case No. C 08-00013 CW and
 28 *Pishvae v. VeriSign, Inc.*, Case No. C 07-03407 CW (together with *Valdez*, the “Messaging

1 Cases.”). The Parties in *Jiran* and *Pishvae* today filed a parallel stipulation to extend the Case
2 Management Conference.

3 2. The Parties in the Messaging Cases have previously apprised this Court of the
4 national settlement of a parallel class action pending before the Superior Court of Fulton County,
5 Georgia and captioned *Tracie McFerren v. AT&T Mobility, LLC*, Fulton County Superior Court
6 Case No. 08-CV-151322. The settlement was preliminarily approved on May 30, 2008, and the
7 final approval hearing was set for December 8, 2008.

8 3. On August 26, 2008, this Court granted AT&T Mobility LLC’s Motion to Stay,
9 pending final approval of the *McFerren* settlement.

10 4. On September 29, 2008, the Honorable Judge Miller of the United States District
11 Court, Southern District of California, in the *In Re Jamster Marketing Litigation MDL 1751*,
12 granted in part a motion to issue an injunction under the All Writs Act prohibiting AT&T Mobility
13 from prosecuting or settling the *McFerren* action. The result of the MDL Court’s injunction order
14 (the “Injunction Order”) was a limited injunction that barred AT&T Mobility from settling through
15 the *McFerren* action any claims related to the marketing of Jamster mobile content.

16 5. On October 24, 2008, AT&T appealed the Injunction Order to the United States
17 Court of Appeals for the Ninth Circuit.

18 6. On November 13, 2008, the *McFerren* court postponed its final approval hearing
19 until further notice, pending the Ninth Circuit’s ruling on the appeal.

20 7. The Ninth Circuit heard oral argument on May 4, 2009. On July 1, 2009, AT&T
21 filed a motion to stay in the Ninth Circuit, on grounds that all parties in the *In Re Jamster Marketing*
22 *Litigation MDL 1751* had reached an agreement in principle to settle the claims asserted in that
23 litigation. On July 20, 2009, the Ninth Circuit stayed the matter for 120 days so that the settlement
24 could be finalized and presented for preliminary approval.

25 8. On November 3, 2009, counsel for the MDL Plaintiffs in *In Re Jamster Marketing*
26 *Litigation MDL 1751* filed the Motion for Preliminary Approval of the Stipulation and Settlement
27 Agreement between the Parties with the district court. A hearing for preliminary approval is set for
28 November 16, 2009.

1 9. The Parties anticipate filing a Motion for Final Approval with the *McFerren* court as
2 soon as the *In Re Jamster Marketing Litigation MDL 1751* Settlement receives preliminary
3 approval. The Parties further anticipate that the *McFerren* court will issue final approval of that
4 settlement within two months and at that time, the parties will advise this Court of the status of the
5 cases pending in this Court and whether any claims/causes of actions exist or have been fully
6 resolved by the other settlements.

7 10. In addition, Defendant m-Qube and plaintiffs' counsel in a parallel national class
8 action have entered into a nationwide settlement resolving all claims against m-Qube related to the
9 alleged imposition of unauthorized mobile content charges on the cell phone bills of wireless
10 subscribers other than those relating to AT&T (which will be released in the *McFerren* settlement.
11 Judge Stewart E. Palmer of the Circuit Court of Cook County, Illinois, granted preliminary approval
12 to the class action settlement on November 3, 2009, in the case *Parone, et al. v. m-Qube, Inc., et al.*,
13 No. 08 CH 15834 (Circuit Court of Cook County, Illinois). Judge Palmer has set the Final Fairness
14 Hearing for February 24, 2010.

15 11. Under the circumstances, the Parties in the above actions request that the CMC be
16 continued, as to them only, until December 22, 2009 at 2:00 p.m. or any date thereafter as is
17 convenient for the court.

18 WHEREFORE, the Parties respectfully request this Court enter an Order Continuing the
19 Case Management Conference presently set for November 17, 2009 at 2:30 pm until December 22,
20 2009 at 2:00 p.m., or such other date as is convenient to the Court, where if these matter are not
21 resolved the Parties will discuss a proposed schedule for a responsive pleadings deadline.

22 IT IS SO STIPULATED.
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Dated: November 16, 2009

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1 Dated: November 16, 2009

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15 Dated: November 16, 2009

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