

1 [JOINT FILING — SEE SIGNATURE PAGE FOR COUNSEL]

2
3 UNITED STATES DISTRICT COURT
4 NORTHERN DISTRICT OF CALIFORNIA
5 OAKLAND DIVISION

6 PartsRiver, Inc.,) No. 4:09-cv-00811-CW (filed Feb. 25, 2009)
7 *Plaintiff,*)
8 vs.) **JOINT STIPULATION AND ORDER TO**
9 Shopzilla, Inc.; Yahoo! Inc.; eBay Inc.; and) **CONTINUE THE CASE MANAGEMENT**
10 Microsoft Corporation,) **CONFERENCE UNTIL MARCH 17, 2011**
11 *Defendants.*) **[Civil L.R. 6-2 and 7-12]**

12 eBay Inc. and Microsoft Corporation,) No. 4:10-cv-4947-CW (filed Nov. 2, 2010)
13 *Plaintiffs,*)
14 vs.)
15 PartsRiver, Inc. and Kelora Systems, LLC,)
16 *Defendants.*)

17 eBay Inc.,) No. 4:10-cv-5106-CW (filed Nov. 10, 2010)
18 *Plaintiff and Counterclaim-Defendant,*)
19 vs.)
20 PartsRiver, Inc. and Kelora Systems, LLC,)
21 *Defendants and Counterclaim-Plaintiff.*)

22 Microsoft Corporation,) No. 4:10-cv-5108-CW (filed Nov. 10, 2010)
23 *Plaintiff and Counterclaim-Defendant,*)
24 vs.)
25 PartsRiver, Inc. and Kelora Systems, LLC,)
26 *Defendants and Counterclaim-Plaintiff.*)

27 Shopzilla, Inc.,) No. 4:11-cv-00502-CW (filed Feb. 2, 2011)
28 *Plaintiff,*)
vs.)
Kelora Systems, LLC,)
Defendant.)

1 **JOINT STIPULATION**

2 The Court recently found that the following five actions are “related” for purposes of Civil
3 L.R. 3-12:

- 4 1. **First Action:** *PartsRiver, Inc., v. Shopzilla, Inc.; Yahoo! Inc.; eBay Inc.; and Microsoft*
5 *Corporation*, No. 4:09-cv-00811-CW (filed Feb. 25, 2009).
- 6 2. **Previously Related Actions:** Actions previously related per this Court’s January 10,
7 2011, order (09-cv-00811, Dkt. No. 267) : *eBay Inc. and Microsoft Corp. v. PartsRiver,*
8 *Inc. and Kelora Systems, LLC*, No. 4:10-cv-4947-CW (filed Nov. 2, 2010); *eBay Inc. v.*
9 *PartsRiver, Inc. and Kelora Systems, LLC*, No. 4:10-cv-5106-CW (filed Nov. 10, 2010);
10 *Microsoft Corp. v. PartsRiver, Inc. and Kelora Systems, LLC*, No. 4:10-cv-5108-CW
11 (filed Nov. 10, 2010).
- 12 3. **New Action:** *Shopzilla, Inc. v. Kelora Systems, LLC*, No. 4:11-cv-00502-CW (filed Feb.
13 2, 2011).

14 Currently, a Case Management Conference (“CMC”) for the First Action and the Initial
15 CMCs for the Previously Related Actions and the New Action are all scheduled for Tuesday, March
16 15, 2011. Additionally, this Court is scheduled to hear the following three motions to dismiss on
17 Thursday, March 17, 2011:

- 18 • PartsRiver and Kelora’s motion to dismiss Case No. 10-4947 (Feb. 10, 2011) [Docket
19 No. 17]
- 20 • PartsRiver’s motion to be dismissed from Case No. 10-5106 (Feb. 10, 2011) [Docket
21 No. 22]
- 22 • PartsRiver’s motion to be dismissed from Case No. 10-5108 (Feb. 10, 2011) [Docket
23 No. 19]

24 The parties believe that aligning the dates for the five CMCs and the hearings for the motions
25 to dismiss is more efficient for both the Court and the parties. Moving the five CMCs also adjusts
26 related deadlines under Fed. R. Civ. P. 26(f), Civil L.R. 16-9, and ADR L.R. 3-5. Accordingly, the
27 parties hereby stipulate to the following schedule for the five actions listed above:
28

<u>Description</u>	<u>Date</u>
<p>10-4947, 10-5106, 10-5108, 11-0502: Last day for parties to:</p> <ul style="list-style-type: none"> • confer re: initial disclosures, early settlement, ADR process selection, and discovery plan • file ADR Certification signed by Parties and Counsel • file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference 	<p>Thursday February 24, 2011</p>
<p>10-4947, 10-5106, 10-5108: Last day for eBay and Microsoft to file opposition to motions to dismiss</p>	<p>Thursday February 24, 2011</p>
<p>10-4947, 10-5106, 10-5108: Last day for PartsRiver and Kelora to file reply in support of motions to dismiss</p>	<p>Thursday March 3, 2011</p>
<p>10-4947, 10-5106, 10-5108, 11-0502: Last day to file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement</p>	<p>Thursday March 10, 2011</p>
<p>09-0811: Last day to file Joint Case Management Statement</p>	<p>Thursday March 10, 2011</p>
<p>10-4947, 10-5106, 10-5108: Hearing on motions to dismiss in Courtroom 2, 4th Floor, 1301 Clay Street, Oakland, CA 94612, at 2:00 p.m.</p>	<p>Thursday March 17, 2011</p>
<p>10-4947, 10-5106, 10-5108, 11-0502: INITIAL CASE MANAGEMENT CONFERENCE (CMC) in Courtroom 2, 4th Floor, 1301 Clay Street, Oakland, CA 94612, at 2:00 p.m.</p>	<p>Thursday March 17, 2011</p>
<p>09-0811: CASE MANAGEMENT CONFERENCE (CMC) in Courtroom 2, 4th Floor, 1301 Clay Street, Oakland, CA 94612, at 2:00 p.m.</p>	<p>Thursday March 17, 2011</p>

The only previous time modifications for the Previously Related Actions was to continue their CMCs to March 15, 2011. There are no previous time modifications for the New Action. As each of the Previously Related Actions and the New Action is at a very early stage and their schedules have not been set by the Court, the requested changes to the case schedules will have no significant effect on the anticipated schedule for the cases.

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IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: February 18, 2011

By: /s/ Robert D. Becker

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Dated: February 18, 2011

By: /s/ Marc R. Ascolese

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By: /s/ Marc R. Ascolese

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Dated: February 18, 2011

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Dated: February 18, 2011

By: /s/ Jordan Trent Jones

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SIGNATURE ATTESTATION

Pursuant to General Order No. 45(X)(B), I hereby certify that concurrence in the filing of this document has been obtained from each of the other signatories shown above.

/s/ Jordan Trent Jones

1 **ORDER CONTINUING THE CASE MANAGEMENT CONFERENCE**

2 IT IS HEREBY ORDERED that the following schedule shall apply to Civil Action Nos.
3 4:09-cv-00811-CW, No. 4:10-cv-4947-CW, 4:10-cv-5106-CW, 4:10-cv-5108-CW, and 4:11-cv-
4 00502-CW:
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<u>Description</u>	<u>Date</u>
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SO ORDERED.

Dated: 2/22/2011



CLAUDIA WILKEN
United States District Judge

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