

1 CONFLUENCE LAW PARTNERS
David C. Bohrer (Bar No. 212397)
dbohrer@confluencelaw.com
2 Jessie J. Ho (SBN 260790)
jho@confluencelaw.com
3 60 South Market Street, Suite 1400
San Jose, California 95113-2396
4 Telephone: (408) 938-3882
Facsimile: (408) 971-4332

QUINN EMANUEL URQUHART &
SULLIVAN, LLP
Robert P. Feldman (Bar No. 69602)
bobfeldman@quinnemanuel.com
555 Twin Dolphin Drive, 5th Floor
Redwood Shores, California 94065-2139
Telephone: (650) 801-5000
Facsimile: (650) 801-5100

6 CONNOLLY BOVE LODGE & HUTZ LLP
Bruce G. Chapman (Bar No. 164258)
bchapman@cblh.com
7 Elizabeth Yang (SBN 249714)
eyang@cblh.com
8 333 S. Grand Avenue, Suite 2300
Los Angeles, California 90071
9 Telephone: (213) 787-2500
Facsimile: (213) 687-0498

Attorneys for Defendants Aliph, Inc. and
Aliphcom, Inc.

10 Attorneys for Plaintiff Plantronics, Inc.
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16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION

19 PLANTRONICS, INC.,
20 Plaintiff,
21 v.
22 ALIPH, INC. and ALIPHCOM, INC.,
23 Defendants.

Case No. C 09-01714 BZ

**STIPULATION AND [PROPOSED]
ORDER STAYING ENFORCEMENT OF
JUDGMENT WITHOUT SECURITY
[FED. R. CIV. P. 62(d)]**

1 Pursuant to Rule 62(d) of the Federal Rules of Civil Procedure, plaintiff Plantronics, Inc.
2 (“Plantronics”) and defendants Aliph, Inc. and Aliphcom, Inc. (“Aliph”), by and through their
3 counsel, hereby submit the following stipulation and proposed order.

4 WHEREAS, On March 23, 2012, this Court entered final judgment in favor of (“Aliph”)
5 and against Plantronics. (D.N. 221.);

6 WHEREAS, Plantronics filed a notice of appeal with the United States Court of Appeals
7 for the Federal Circuit on April 19, 2012. (D.N. 228.);

8 WHEREAS, As part of its final judgment, the Court ordered that Aliph recover its costs.
9 Aliph submitted a Bill of Costs (D.N. 227) on which the clerk taxed \$36,577.25 (D.N. 233). On
10 May 8, 2012, Aliph moved for review of the costs taxed by the clerk, which is scheduled for
11 hearing on June 20, 2012. (D.N. 235.) Plantronics opposed Aliph’s motion for review, requesting
12 that the Court deny review of the clerk’s award or alternatively deny review except as proposed by
13 Plantronics. (D.N. 238 at vi.) Under the circumstances, the Court will be awarding costs in some
14 amount upon the Court’s resolution of Aliph’s motion for review. Plantronics seeks a stay of
15 execution of the costs award pending appeal;

16 WHEREAS, Rule 62(d) of the Federal Rules of Civil Procedure authorizes the Court to
17 stay enforcement of a judgment awarding costs pending appeal;

18 WHEREAS, the Court has discretion to stay enforcement of a judgment without security
19 when the Court finds the appellee’s interests are adequately protected. *Am. Color Graphics v.*
20 *Travelers Prop. Cas. Ins. Co.*, 2007 WL 152 0952 at *1 (N.D. Cal. May 23, 2007).

21 WHEREAS, the parties agree that Plantronics has sufficient resources to pay the costs
22 award plus any postjudgment interest and appeal costs if the appeal is unsuccessful, and the parties
23 mutually seek to avoid the expense of obtaining any type of security.

24 WHEREAS, Aliph agrees to waive the requirement that Plantronics obtain any type of
25 security in order to stay enforcement of the costs award or other money judgment pending appeal.

1 ACCORDINGLY, the parties agree and request that the Court enter an order pursuant to
2 Rule 62(d) staying the judgment and enforcement of any subsequent order awarding costs pending
3 appeal and finding that no bond or other security is required.

4 IT IS SO STIPULATED.

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6 Dated: June 1, 2012

CONFLUENCE LAW PARTNERS

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8 By: /s/ David C. Bohrer
David C. Bohrer
9 Attorneys for Plaintiffs
PLANTRONICS, INC

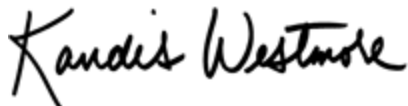
10
11 Dated: June 1, 2012

QUINN EMANUEL URQUHART & SULLIVAN,
LLP

12
13 By: /s/ Robert P. Feldman
14 Robert P. Feldman
15 Attorneys for Defendants
ALIPH, INC. AND ALIPHCOM, INC.

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18 **PURSUANT TO STIPULATION, AND FOR GOOD CAUSE SHOWN, IT IS SO**
19 **ORDERED.**

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21 DATED: June 20, 2012

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24 Hon. ~~Bernard Zimmerman~~ Kandis A. Westmore
United States Magistrate Judge

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I, David C. Bohrer, am the ECF User whose identification and password are being used to file this document. Pursuant to General Order 45.X.B, I hereby attest that David Bohrer, counsel for Plaintiff and Robert Feldman, counsel for Defendant, have concurred in this filing.

Dated: June 1, 2012

/s/ David C. Bohrer

David C. Bohrer