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REED SMITH LLP
A limited liability partnership formed in the State of Delaware

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

EXCELSTOR TECHNOLOGY, INC., EXCELSTOR TECHNOLOGY LIMITED, EXCELSTOR GROUP LIMITED, EXCELSTOR GREAT WALL TECHNOLOGY LIMITED, and SHENZHEN EXCELSTOR TECHNOLOGY LIMITED,	Case No. 09-cv-2055-PJH **STIPULATION AND [PROPOSED] ORDER TO RESCHEDULE CASE MANAGEMENT CONFERENCE**
Plaintiffs,	Honorable Phyllis J. Hamilton
vs.	
PAPST LICENSING GMBH & CO. KG, and DOES 1 through 10,	
Defendants.	

IT IS HEREBY STIPULATED AND AGREED by Plaintiffs ExcelStor Technology, Inc.,

ExcelStor Technology Limited, ExcelStor Group Limited, ExcelStor Great Wall Technology

Limited, and Shenzhen ExcelStor Technology Limited (collectively referred to as "ExcelStor") and

Defendant Papst Licensing GmbH & Co. KG ("Papst"), through their respective counsel and

pursuant to Civil Local Rules 6-2, 7-12 and 16-2, as follows:

WHEREAS, ExcelStor filed the captioned action on May 12, 2009;

WHEREAS, this Court initially scheduled the Case Management Conference for August 27,

2009;

WHEREAS, Papst filed a motion on July 17, 2009 to dismiss the ExcelStor's complaint;

WHEREAS, ExcelStor filed an Amended Complaint on July 31, 2009;

WHEREAS, Papst then withdrew its motion to dismiss the initial complaint in the captioned

action, and filed a new motion to dismiss the Amended Complaint;

WHEREAS, this Court rescheduled the Case Management Conference for October 22, 2009

based on a stipulated request of the parties, as a result of Papst withdrawing its initial motion to

dismiss and filing a new one after ExcelStor filed an Amended Complaint;

WHEREAS, in an August 26, 2009 Order (Dkt. No. 37), this Court set a detailed schedule

for briefing and resolving the Rule 12(b)(1), (2) and (6) issues raised in Papst's motion to dismiss in

several stages;

WHEREAS, pursuant to its Order of August 26, 2009, the Court first will hear oral argument

on October 21, 2009 on the subject matter jurisdiction and failure to state a claim portions of Papst's

motion to dismiss;

WHEREAS, pursuant to its Order of August 26, 2009, if the Court determines that there is

subject matter jurisdiction, there is a schedule for completing briefing on ExcelStor's motion for

personal jurisdictional discovery that is measured from the date of the Court's decision as to whether

STIPULATION AND PROPOSED ORDER TO RESCHEDULE CASE MANAGEMENT CONFERENCE

1 there is subject matter jurisdiction;

2 WHEREAS, pursuant to its Order of August 26, 2009, if the Court grants the discovery

3 motion, there is a schedule for conducting the discovery and then completing briefing on the

4 personal jurisdiction portion of Papst's motion to dismiss, that is measured from the date of the

5 Court's decision on the discovery motion;

6

7 WHEREAS, pursuant to its Order of August 26, 2009, if the Court does not grant the

8 discovery motion, there is a schedule for completing briefing on the personal jurisdiction portion of

9 Papst's motion to dismiss, that is measured from the date of the Court's decision on the discovery

10 motion; and

11 WHEREAS, in view of the pending motions and the schedule set by the Court's Order of

12 August 26, 2009, it is desirable to continue the Case Management Conference that is currently

13 scheduled for October 22, 2009, and briefly to discuss appropriate timing for a Case Management

14 Conference at the hearing of Papst's motion to dismiss on October 21, 2009;

15

16 IT IS HEREBY STIPULATED between ExcelStor and Papst that, subject to the Court's

17 approval, the Case Management Conference be removed from the docket on October 22, 2009 and

18 its timing be addressed at the hearing of Papst's motion to dismiss on October 21, 2009. This Court

19 initially scheduled a Case Management Conference for August 27, 2009, and the impact on the

20 overall schedule of this case due to the requested rescheduling of the Case Management Conference

21 will depend on the new schedule set by the Court.

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DATED: October 13, 2009

REED SMITH LLP

By ____/s/ John S. Siamas_____
John S. Siamas
Attorneys for Defendant
PAPST LICENSING GMBH & CO. KG

DATED: October 13, 2009

CARR & FERRELL LLP

By /s/ Kenneth B. Wilson
Kenneth B. Wilson
Attorneys for EXCELSTOR Plaintiffs

PURSUANT TO STIPULATION, IT IS SO ORDERED. The Case Management

Conference scheduled for October 22, 2009 shall be removed from the docket, to be rescheduled by

the Court after the hearing of Papst's currently pending motion to dismiss on October 21, 2009.

DATED: October __15__, 2009

_____
The Honorable Phyllis J. Hamilton
United States District Judge

IT IS SO ORDERED
Judge Phyllis J. Hamilton

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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