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11	Attorneys for Defendant Papst Licensing GmbH & Co. KG		
12	UNITED STATES DISTRICT COURT		
13	NORTHERN DISTRICT OF CALIFORNIA		
14	OAKLAND DIVISION		
15	EXCELSTOR TECHNOLOGY, INC.,	Case No. 09-cv-2	2055-РЈН
16	EXCELSTOR TECHNOLOGY LIMITED, EXCELSTOR GROUP LIMITED, EXCELSTOR	STIPULATION AND [P <del>ROPOSED]</del> ORDER FOR EXTENSION OF TIME FOR ADDITIONAL BRIEFING	
17	GREAT WALL TECHNOLOGY LIMITED, and SHENZHEN EXCELSTOR TECHNOLOGY LIMITED,		
18	Plaintiffs,	Honorable	Phyllis J. Hamilton
19	VS.		
20	PAPST LICENSING GMBH & CO. KG, and		
21	DOES 1 through 10,		
22	Defendants.		
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	No. 09-cv-2055-PJH – 1 STIPULATION AND PROPOSED ORDER TO I		US_ACTIVE-101972525.1

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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 and 7-12, 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 October 23, 2009 Order (Dkt. No. 49), this Court dismissed the Amended Complaint, gave ExcelStor leave to file a Second Amended Complaint by November 20, 2009, and ordered Papst to respond to that Second Amended Complaint within 20 days after it was filed;

WHEREAS, ExcelStor filed its Second Amended Complaint on November 20, 2009 (Dkt.
No. 50) and Papst filed a new motion to dismiss on December 10, 2009 (Dkt. No. 51), noticing it for a hearing on January 20, 2010;

WHEREAS, on December 15, 2009, the parties stipulated to continue the hearing of Papst's motion to dismiss the Second Amended Complaint until February 3, 2010 (Dkt. No. 54);

WHEREAS, in a January 25, 2010 Order (Dkt. No. 58), the Court continued the hearing until No. 09-cv-2055-PJH -2- US\_ACTIVE-101972525.1

STIPULATION AND PROPOSED ORDER TO EXTEND TIME FOR ADDITIONAL BRIEFING

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February 24, 2010;

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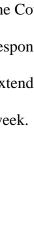
WHEREAS, in response to a request of ExcelStor's counsel that Papst provide its covenant in writing, and to avoid any possible confusion that might have resulted from the statement at oral argument on February 24, 2010 supplementing what was expressed in Papst's reply brief of January 20, 2010, Papst restated in a written covenant on March 3, 2010 (Dkt. No. 63) the covenant expressed in its brief and the additional covenant stated in open court during the hearing;

WHEREAS, in a March 5, 2010 Order, the Court ordered further briefing to address the impact of the covenant on the question of subject matter jurisdiction, and ordered Papst to file a brief by March 15, 2010, ExcelStor to respond by March 22, 2010, and Papst to reply by March 29, 2010;

WHEREAS, Papst's counsel Leonard Friedman has written all of Papst's briefs in this action, and he left for a previously planned skiing vacation this past weekend, is not scheduled to return to Chicago until the evening of Sunday, March 14, 2010, and will not have an opportunity to work on Papst's brief before its due date of March 15, 2010;

WHEREAS, counsel for the parties have conferred and agree to a stipulated request for a one week delay in the briefing schedule ordered by the Court;

IT IS HEREBY STIPULATED between ExcelStor and Papst that, subject to the Court's approval, the date for Papst to submit a brief to address the impact of the covenant on the question of the Court's jurisdiction be extended until March 22, 2010, the date for ExcelStor to submit a response brief be extended until March 29, 2010, and the date for Papst to submit a reply brief be extended until April 5, 2010. The impact on the overall schedule of this case will be a delay of one week.



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2	DATED: March 9, 2010 HUSCH BLACKWELL SANDERS LLP		
3	WELSH & KATZ		
4	Dry /s/ Israld D. Cohrasser		
5	By /s/ Jerold B. Schnayer Jerold B. Schnayer		
6	Attorney for Defendant PAPST LICENSING GMBH & CO. KG		
7	DATED: March 9, 2010		
8	CARR & FERRELL LLP		
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10	By <u>/s/ Kenneth B. Wilson</u> Kenneth B. Wilson		
11	Attorney for EXCELSTOR Plaintiffs		
12	PURSUANT TO STIPULATION, IT IS SO ORDERED. The date for Papst to submit its brief is extended to March 22, 2010, the date for ExcelStor to respond is extended until March 29, 2010, and the date for Papst to reply is extended until April 5, 2010.		
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17	DATED M. 1 11 2010		
18	The Honorable IT IS SO ORDERED ton		
19	Z Z Judge Phyllis J. Hamilton		
20	THER DISTRICT OF COM		
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	No. 09-cv-2055-PJH - 4 - US_ACTIVE-101972525.1 STIPULATION AND PROPOSED ORDER TO EXTEND TIME FOR ADDITIONAL BRIEFING		

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