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10 Attorneys for Defendant  
 11 Papst Licensing GmbH & Co. KG

12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA  
 14 OAKLAND DIVISION

15 EXCELSOR TECHNOLOGY, INC.,  
 EXCELSOR TECHNOLOGY LIMITED,  
 16 EXCELSOR GROUP LIMITED, EXCELSOR  
 GREAT WALL TECHNOLOGY LIMITED, and  
 17 SHENZHEN EXCELSOR TECHNOLOGY  
 LIMITED,  
 18 Plaintiffs,  
 19 vs.  
 20 PAPST LICENSING GMBH & CO. KG, and  
 21 DOES 1 through 10,  
 22 Defendants.

Case No. 09-cv-2055-PJH  
**STIPULATION AND [PROPOSED]  
 ORDER FOR EXTENSION OF TIME FOR  
 ADDITIONAL BRIEFING**

Honorable Phyllis J. Hamilton

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

1 IT IS HEREBY STIPULATED AND AGREED by Plaintiffs ExcelStor Technology, Inc.,  
2 ExcelStor Technology Limited, ExcelStor Group Limited, ExcelStor Great Wall Technology  
3 Limited, and Shenzhen ExcelStor Technology Limited (collectively referred to as “ExcelStor”) and  
4 Defendant Papst Licensing GmbH & Co. KG (“Papst”), through their respective counsel and  
5 pursuant to Civil Local Rules 6-2 and 7-12, as follows:  
6

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

8 WHEREAS, this Court initially scheduled the Case Management Conference for August 27,  
9 2009;

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

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

12 WHEREAS, Papst then withdrew its motion to dismiss the initial complaint in the captioned  
13 action, and filed a new motion to dismiss the Amended Complaint;  
14

15 WHEREAS, this Court rescheduled the Case Management Conference for October 22, 2009  
16 based on a stipulated request of the parties, as a result of Papst withdrawing its initial motion to  
17 dismiss and filing a new one after ExcelStor filed an Amended Complaint;

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

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

24 WHEREAS, on December 15, 2009, the parties stipulated to continue the hearing of Papst’s  
25 motion to dismiss the Second Amended Complaint until February 3, 2010 (Dkt. No. 54);  
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27 WHEREAS, in a January 25, 2010 Order (Dkt. No. 58), the Court continued the hearing until  
28

1 February 24, 2010;

2 WHEREAS, in response to a request of ExcelStor's counsel that Papst provide its covenant  
3 in writing, and to avoid any possible confusion that might have resulted from the statement at oral  
4 argument on February 24, 2010 supplementing what was expressed in Papst's reply brief of January  
5 20, 2010, Papst restated in a written covenant on March 3, 2010 (Dkt. No. 63) the covenant  
6 expressed in its brief and the additional covenant stated in open court during the hearing;  
7

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

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

15  
16 WHEREAS, counsel for the parties have conferred and agree to a stipulated request for a one  
17 week delay in the briefing schedule ordered by the Court;

18 IT IS HEREBY STIPULATED between ExcelStor and Papst that, subject to the Court's  
19 approval, the date for Papst to submit a brief to address the impact of the covenant on the question of  
20 the Court's jurisdiction be extended until March 22, 2010, the date for ExcelStor to submit a  
21 response brief be extended until March 29, 2010, and the date for Papst to submit a reply brief be  
22 extended until April 5, 2010. The impact on the overall schedule of this case will be a delay of one  
23 week.  
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DATED: March 9, 2010

HUSCH BLACKWELL SANDERS LLP  
WELSH & KATZ

By           /s/ Jerold B. Schnayer            
Jerold B. Schnayer  
Attorney for Defendant  
PAPST LICENSING GMBH & CO. KG

DATED: March 9, 2010

CARR & FERRELL LLP

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

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.

DATED: March 11, 2010

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The Honorable \_\_\_\_\_  
United States District Court for the Northern District of California



