

1 Richard L. Seabolt, Esq. (SBN 67469)
DUANE MORRIS LLP
 2 Spear Tower
 One Market Plaza, Suite 2200
 3 San Francisco, CA 94105-1127
 Telephone: 415.957.3000
 4 Facsimile: 415.957.3001
 E-Mail: rlseabolt@duanemorris.com

5
 L. Norwood Jameson (admitted *pro hac vice*)
 6 Matthew C. Gaudet (admitted *pro hac vice*)
DUANE MORRIS LLP
 7 ATLANTIC CENTER PLAZA
 1180 West Peachtree Street NW, Suite 700
 8 Atlanta, GA 30309-3448
 Telephone: 404.253.6900
 9 Facsimile: 404.253.6901
 E-mail: wjameson@duanemorris.com
 10 E-mail: mcgaudet@duanemorris.com

11 Thomas W. Sankey, Esq. (admitted *pro hac vice*)
 Jordan T. Fowles (admitted *pro hac vice*)
 12 **DUANE MORRIS LLP**
 13 1330 Post Oak Boulevard, Suite 800
 Houston, Texas 77056
 14 Telephone: 713.402.3900
 Facsimile: 713.402.3901
 15 E-mail: twsankey@duanemorris.com
 E-mail: jtfowles@duanemorris.com

16 **Attorneys for Plaintiff**
 17 **Affinity Labs of Texas, LLC**

18
 19 **UNITED STATES DISTRICT COURT**
 20 **NORTHERN DISTRICT OF CALIFORNIA**
OAKLAND DIVISION

21 AFFINITY LABS OF TEXAS, LLC, a
 22 Texas Limited Liability Company,

23 Plaintiff and
 Counterclaim-Defendant,

24 v.

25 APPLE INC., a California Corporation,

26 Defendant and
 27 Counterclaim-Plaintiff.

CASE NO. CV 09-4436-CW

CIVIL LOCAL RULE 6-2(a)
STIPULATION AND [~~PROPOSED~~]
ORDER

Judge: Hon. Claudia Wilken

1 IT IS HEREBY STIPULATED by and between Plaintiff Affinity Labs of Texas, LLC
2 (“Affinity”) and Defendant Apple Inc. (“Apple”) as follows:

3 WHEREAS, pursuant to the Stipulation entered into between the parties and approved by
4 the Court on December 23, 2010 (Docket No. 82) the close of fact discovery is scheduled for
5 March 11, 2011, the designation of technical expert witnesses and exchange of initial expert
6 reports is scheduled for March 15, 2011 and the designation of rebuttal technical expert witnesses
7 and exchange of rebuttal expert reports is scheduled for April 5, 2011;

8 WHEREAS, Affinity requested additional time to take depositions of third party subpoena
9 targets, and Apple agreed to Affinity’s request;

10 WHEREAS, the parties need additional time for their technical expert reports and rebuttal
11 technical expert reports;

12 WHEREAS, as of the date of this Stipulation, there are multiple third party subpoenas still
13 outstanding;

14 WHEREAS, the parties agree not to issue additional subpoenas effective March 2, 2011;

15 WHEREAS, the parties’ proposed modifications will not impact the trial date, Markman
16 date, dispositive motion date, or any other dates not listed below;

17 WHEREAS, the parties agree that this stipulation does not provide cause to exceed the
18 limit of 70 hours for depositions for each party identified in the Joint Case Management
19 Statement;

20 WHEREAS, the parties agree

21 NOW, THEREFORE, IT IS HEREBY STIPULATED BY AND BETWEEN THE
22 PARTIES HERETO, THROUGH THEIR RESPECTIVE COUNSEL AND SUBJECT TO THE
23 APPROVAL OF THE COURT, AS FOLLOWS:

- 24 1. The close of fact discovery shall be extended from March 15, 2011, to March 21,
25 2011;
- 26 2. The deadline for designation of technical expert witnesses and exchange of initial
27 expert reports shall be extended from March 15, 2011, to March 22, 2011;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. The deadline for designation of rebuttal technical expert witnesses and exchange of rebuttal technical expert reports shall be extended from April 5, 2011, to April 12, 2011;
4. The close of expert discovery shall be extended from April 12, 2011, to April 19, 2011;
5. Unless already requested or scheduled, the parties cannot request the depositions of any additional party witnesses;
6. Unless a party can demonstrate a genuine basis for disputing authenticity, the parties waive their hearsay and authenticity objections related to the financial information produced (or authorized to be produced) by the defendants in the Texas cases (*Affinity Labs v. BMW et al.* 9:08-cv-164; *Affinity Labs v. Alpine et al.*, 9:08-cv-171).

Dated: March 8, 2011

RICHARD L. SEABOLT
L. NORWOOD JAMESON
MATTHEW C. GAUDET

DUANE MORRIS LLP

By: /s/ Jordan T. Fowles

Attorneys for Plaintiff AFFINITY LABS OF TEXAS, LLC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Pursuant to General Order No. 45 X(B), I hereby attest that concurrence in the filing of this document has been obtained from Darin Glasser.

Dated: March 8, 2011

RICHARD L. SEABOLT
L. NORWOOD JAMESON
MATTHEW C. GAUDET
JORDAN T. FOWLES

DUANE MORRIS LLP

By: /s/ Jordan T. Fowles

Attorneys for Plaintiff AFFINITY LABS OF TEXAS, LLC

Dated: March 8, 2011

GEORGE A. RILEY
RYAN K. YAGURA
DARIN J. GLASSER
NICHOLAS J. WHILT

O'MELVENY & MYERS LLP

By: /s/ Darin Glasser

Attorneys for Defendant APPLE INC.

PURSUANT TO STIPULATION, IT IS SO ORDERED,

Dated: 3/9/2011



Honorable Claudia Wilken
United States District Judge