

1 STEPHEN J. AKERLEY (S.B. #160757)
 sakerley@omm.com
 2 ERIC AMDURSKY (S.B. #180288)
 eamdursky@omm.com
 3 PETER T. SNOW (S.B. #222117)
 psnow@omm.com
 4 O'MELVENY & MYERS LLP
 2765 Sand Hill Road
 5 Menlo Park, California 94025
 Telephone: (415) 984-8700
 6 Facsimile: (415) 984-8701

7 JILLIAN R. WEADER (S.B. #251311)
 jweader@omm.com
 8 O'MELVENY & MYERS LLP
 2 Embarcadero Center, 28th Floor
 9 San Francisco, CA 94111
 Telephone: (415) 984-8700
 10 Facsimile: (415) 984-8701

11 Attorneys for Defendants
 DeviceVM, INC. a Delaware corporation, and
 12 BENEDICT CHONG, an individual

13
 14 **UNITED STATES DISTRICT COURT**
 15 **NORTHERN DISTRICT OF CALIFORNIA**
 16 **OAKLAND DIVISION**

17 PHOENIX TECHNOLOGIES, LTD., a)
 Delaware corporation,)
 18)
 Plaintiff,)
 19)
 v.)
 20)
 21 DEVICEM, Inc., a Delaware corporation,)
 and BENEDICT CHONG, an individual,)
 22)
 Defendants.)

Case No. C 09-04697-CW

**STIPULATION AND ORDER
 REGARDING SCHEDULING
 MATTERS**

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1 WHEREAS, on August 31, 2009, Plaintiff filed the First Amended Complaint in the
2 Superior Court of the State of California in and for the County of Santa Clara;

3 WHEREAS, on October 1, 2009, Defendants timely removed the case to this Court
4 pursuant to its federal question jurisdiction under 28 U.S.C. § 1441(a);

5 WHEREAS, on October 8, 2009, Defendants filed a Motion to Dismiss Counts 2, 3, 4 and
6 5 of the First Amended Complaint;

7 WHEREAS, on October 16, 2009, this case was reassigned to the Honorable Claudia
8 Wilken for all further proceedings;

9 WHEREAS, on October 20, 2009, this Court entered a Case Management Scheduling
10 Order for Reassigned Civil Case (“Case Management Order”), which set the hearing on
11 Defendants’ Motion to Dismiss for December 3, 2009;

12 WHEREAS, the Case Management Order stated that Plaintiff’s Opposition brief to
13 Defendants’ Motion to Dismiss shall be filed by November 12, 2009, and that Defendants’ Reply
14 brief in support of the Motion to Dismiss shall be filed by November 19, 2009;

15 WHEREAS, the parties have met and conferred and agreed to continue the hearing date
16 for Defendants’ Motion to Dismiss due to a scheduling conflict on behalf of DeviceVM’s lead
17 counsel;

18 NOW, THEREFORE, the undersigned parties hereby stipulate and agree, and respectfully
19 request that the Court enter an order, as follows:

- 20 1. The hearing on Defendants’ Motion to Dismiss shall be continued to December 10,
21 2009, at 2 p.m.;
- 22 2. Plaintiff’s Opposition brief shall remain due by no later than November 12, 2009;
- 23 3. Defendants’ Reply brief shall remain due by no later than November 19, 2009.

24 IT IS SO STIPULATED.

O’MELVENY & MYERS LLP

25
26 Dated: November 5, 2009

By: _____ /s/
Stephen J. Akerley

Attorneys for Defendants DeviceVM, Inc.
and Benedict Chong

