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 9 **BACKWEB TECHNOLOGIES, LTD.**

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Attorneys for Defendant
**INTERNATIONAL BUSINESS MACHINES
 CORPORATION**

15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA
 17 OAKLAND DIVISION

18 BACKWEB TECHNOLOGIES, LTD.,
 Plaintiff,
 19 vs.
 20 INTERNATIONAL BUSINESS MACHINES
 21 CORPORATION,
 22 Defendant.

CASE NO. C 10-4310 PJH
**STIPULATION TO AMEND CASE
 MANAGEMENT SCHEDULE**

1 Plaintiff BackWeb Technologies, Ltd. (“BackWeb”), defendant International Business
2 Machines Corporation (“IBM”) and Hewlett-Packard Company (“HP”), a defendant in *BackWeb*
3 *Technologies, Ltd. v. Hewlett-Packard Co.*, Case No. C 10-4311 PJH (“*BackWeb Tech. II*”),
4 hereby stipulate through their respective counsel of record as follows:

5 WHEREAS the Initial Case Management Conference in this matter was held as scheduled
6 on April 21, 2011; and

7 WHEREAS, prior to the Initial Case Management Conference BackWeb and IBM jointly
8 submitted a Joint Case Management Statement outlining a schedule for claim construction which
9 joined the schedule for claim construction in *BackWeb Tech. II*; and

10 WHEREAS, at the Initial Case Management Conference, the Court stated concerns
11 regarding joining the claim construction schedule in *BackWeb Tech. II* because the Court would
12 not have sufficient time to properly perform claim construction if the parties in both matters were
13 each to submit separate briefs and attempt to construe 10 separate claim terms in each matter; and

14 WHEREAS, counsel for BackWeb and IBM represented that they thought an agreement to
15 consolidate would be possible whereby the parties in this matter and in *BackWeb Tech. II* could
16 agree to consolidate both the hearing and the related briefing process in a manner which would
17 reduce the burden on the Court and lead to greater efficiency in the claim construction process in
18 both matters; and

19 WHEREAS, the Court instructed BackWeb and IBM to speak to HP regarding these
20 issues; and

21 WHEREAS, BackWeb, IBM and HP (collectively “the parties”)¹ have reached an
22 agreement which the parties hope will allow the Court sufficient time to properly perform claim
23 construction for both cases at the same time which is in the best interest of all parties and the
24 Court; and

25
26 _____
27 ¹ If the Court has any concerns regarding the stipulation, the parties would ask the Court for
28 an opportunity to jointly discuss any issues with the Court, either telephonically or in person.

1 WHEREAS, the parties agree that they will work in good faith to limit the number of terms
2 for the Court to construe to ten (10) but if the parties are unable to limit it to ten (10) they will
3 jointly seek leave asking the Court to construe at most twelve (12) terms; and

4 WHEREAS, IBM and HP have agreed to file joint briefs; and

5 WHEREAS, the parties agree that they will work in good faith to stay within the page
6 limits dictated by the local rules for the Northern District of California but if they are unable to do
7 so, they will jointly seek leave from the Court to allow the parties to exceed the page limits by at
8 most ten (10) pages for the opening claim construction brief, under Local P.R. 4-5(a), and the
9 responsive claim construction brief, under Local P.R. 4-5(b); and

10 WHEREAS, the parties have also agreed to the Proposed Schedule attached hereto as
11 Exhibit A;

12 IT IS HEREBY STIPULATED by and between the parties that the Court may set the dates
13 set forth in the Proposed Schedule attached hereto as Exhibit A.

14
15 Dated: May 3, 2011

Respectfully submitted,

16 /s/ Spencer Hosie
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ATTESTATION PURSUANT TO GENERAL ORDER 45

Pursuant to General Order No. 45, § X(B), regarding signatures, I attest under penalty of perjury that the concurrence in the filing of this document has been obtained from its signatories.

Dated: May 3, 2011

By: /s/ Jennifer A. Kash

Jennifer A. Kash

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CASE NO. C 10-4310 PJH
**EXHIBIT A TO THE STIPULATION TO
AMEND CASE MANAGEMENT
SCHEDULE**

EXHIBIT A

Event	Proposed Date
Disclosure of Asserted Claims and Infringement Contentions and accompanying document production [Pat. L.R. 3.1-3.2]	May 5, 2011
Exchange of Proposed Terms and Claim Elements for Construction [Pat. L.R. 4.1.a-b.]	June 1, 2011
Invalidity Contentions and accompanying document production [Pat. L.R. 3.3-3.4]	June 13, 2011
Simultaneous Exchange of Preliminary Claim Constructions and Preliminary Identifications of Extrinsic Evidence [Pat. L.R. 4.2.a-b.]	June 20, 2011
Deadline to Amend Pleadings	June 27, 2011
Filing of Joint Claim Chart, Worksheet and Hearing Statement [Pat. L.R. 4.3]	July 1, 2011
Completion of Claim Construction Discovery [Pat. L.R. 4.4]	July 1, 2011
Opening Claim Construction Brief [Pat. L.R. 4.5.a.]	July 8, 2011
Responsive Claim Construction Brief [Pat. L.R. 4.5.b]	July 22, 2011
Reply Claim Construction Brief [Pat. L.R. 4.5.c]	July 29, 2011
Tutorial	August 5, 2011
Claim Construction Hearing [Pat. L.R. 4.6]	August 31, 2011

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**[PROPOSED] ORDER TO AMEND CASE
MANAGEMENT SCHEDULE**

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[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: May 10, 2011

The Honorable
United States

