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17 UNITED STATES DISTRICT COURT  
 18 NORTHERN DISTRICT OF CALIFORNIA  
 19 (OAKLAND DIVISION)

20 BACKWEB TECHNOLOGIES, LTD.,  
 21 Plaintiff,  
 22 v.  
 23 HEWLETT-PACKARD COMPANY,  
 24 Defendant.  
 25

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Attorneys for Plaintiff  
 BACKWEB TECHNOLOGIES, LTD.

Case No. 4:10-CV-04311-PJH  
 STIPULATION AND [~~PROPOSED~~] ORDER  
 TO AMEND CASE MANAGEMENT  
 SCHEDULE

26  
 27 Plaintiff BackWeb Technologies, Ltd. (“BackWeb”), defendant Hewlett-Packard Company  
 28 (“HP”), and International Business Machines Corporation (“IBM”) a defendant in *BackWeb*

STIPULATION AND [PROPOSED] ORDER TO  
 AMEND CASE MANAGEMENT SCHEDULE  
 Case No. 4:10-CV-04311-PJH

1 *Technologies, Ltd. v. International Business Machines Corporation*, Case No. C 10-4310 PJH  
2 (“*BackWeb v. IBM*”), hereby stipulate through their respective counsel of record as follows:

3 WHEREAS the Initial Case Management Conference in *BackWeb v. IBM* was held as  
4 scheduled on April 21, 2011; and

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

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

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

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

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

24  
25  
26  
27 <sup>1</sup> 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  
16 Dated: May 3, 2011

FISH & RICHARDSON P.C.

17 By: /s/ Robert J. Kent  
18 Robert J. Kent

19 Attorneys for Defendant  
20 HEWLETT-PACKARD COMPANY

21 Dated: May 3, 2011

HOSIE RICE LLP

22 By: /s/ George Bishop  
23 George Bishop

24 Attorneys for Plaintiff  
25 BACKWEB TECHNOLOGIES, LTD.

**FILER'S ATTESTATION**

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

Dated: May 3, 2011

FISH & RICHARDSON P.C.

By: /s/ Robert J. Kent  
Robert J. Kent

Attorneys for Attorneys for Defendant  
HEWLETT-PACKARD COMPANY

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**[PROPOSED] ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: May 10, 2011

The Honorable Phyllis J. Hamilton  
United States District Court



**EXHIBIT A**

<b>Event</b>	<b>Proposed Date</b>
Exchange of Proposed Terms and Claim Elements for Construction [Pat. L.R. 4.1.a-b.]	June 1, 2011*
Simultaneous Exchange of Preliminary Claim Constructions and Preliminary Identifications of Extrinsic Evidence [Pat. L.R. 4.2.a-b.]	June 20, 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

- Dates with an asterisk represent changes from the existing schedule

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