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7 Attorneys for Defendants
 SPACE PENCIL, INC. D/B/A KISSMETRICS and
 8 GIGA OMNI MEDIA, INC.

9 [Counsel For Additional Parties
 Listed On Signature Page]

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

15 JOHN B. KIM and DAN C. SCHUTZMAN,
 Individuals, on Behalf of Themselves and Others
 16 Similarly Situated,

17 Plaintiffs,

18 v.

19 SPACE PENCIL, INC. D/B/A KISSMETRICS,
 20 BABYPIPS.COM, INVOLVER.COM, MOO,
 INC., SITENING, LLC., SHOEDAZZLE.COM
 21 INC., 8TRACKS INC., ABOUT.ME,
 FRIEND.LY, GIGA OMNI MEDIA, INC.,
 22 HASOFFERS.COM, KONGREGATE INC.,
 LIVEMOCHA INC., ROCKETTHEME, LLC,
 23 FITNESS KEEPER, INC., SEOMOZ, INC.,
 24 SHARECASH, LLC., SLIDESHARE.NET,
 SPOKEO, INC., SPOTIFY USA, INC.,
 25 VISUAL.LY, CONDUIT USA, FLITE, INC.,
 TANGIENT, LLC, ETSY INC, AND
 26 IVILLIAGE, INC.;

27 Defendants.

CASE NO. 11-CV-3796 LB

**STIPULATION AND ~~PROPOSED~~
 ORDER TO CONTINUE JANUARY 26,
 2012 CASE MANAGEMENT
 CONFERENCE**

Date Action Filed: Aug. 1, 2011
 Trial Date: Not Set

1 WHEREAS, on August 1, 2011, Plaintiffs John B. Kim and Dan C. Schutzman (“Plaintiffs”)
2 filed a class action complaint against the twenty-six defendants listed on the caption page
3 (“Defendants”) in the above-referenced matter (Docket No. 1);

4 WHEREAS, on September 7, 2011, Plaintiffs filed a First Amended Class Action Complaint
5 (the “Complaint”) against Defendants (Docket No. 31);

6 WHEREAS, on September 30, 2011, this Court entered a Related Case Order relating this
7 case to Case No. 11-CV-03764 LB and transferring this case from Magistrate Judge Elizabeth D.
8 Laporte to this Court (Docket No. 38);

9 WHEREAS, on October 21, 2011, the parties received notice from the Clerk that the Court
10 has scheduled a Case Management Conference for January 26, 2012 at 10:30 a.m., and ordered the
11 parties to file a Joint Case Management Statement by January 19, 2012 (Docket No. 50);

12 WHEREAS, on November 4, 2011, this Court granted the parties’ stipulation to temporarily
13 vacate deadlines for Defendants to respond to the Complaint pending the outcome of mediation
14 (Docket No. 56);

15 WHEREAS, pursuant to the parties’ stipulation, the Court ordered the parties to notify the
16 Court of the results of the mediation by no later than January 19, 2012, the date the Joint Case
17 Management Statement is due;

18 WHEREAS, on December 19, 2011, certain of the parties participated in a meditation before
19 the Honorable Edward A. Panelli (Ret.) of JAMS;

20 WHEREAS, the case was not resolved at the mediation, but following the mediation a written
21 settlement offer was delivered by Plaintiffs and is currently being reviewed by Defendant Space
22 Pencil, Inc. d/b/a KISSmetrics and its insurance carrier; and

23 WHEREAS, in light of these and related ongoing settlement negotiations among the parties,
24 the parties believe that judicial efficiency will be maximized and that the interests of all parties will
25 be best served by continuing the case management conference, along with all related deadlines, in
26 order to provide the parties with additional time to explore the potential for a resolution of this
27 matter;

28

1 THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the parties to this
2 Stipulation, through their respective counsel, and subject to the approval of this Court, as follows:

3 1. Any deadlines for Defendants to respond to the Complaint that were vacated by the
4 Court's November 4, 2011 Order remain vacated.

5 2. The Case Management Conference scheduled for January 26, 2012 is continued by four
6 weeks to February 23, 2012 at 10:30 a.m.

7 3. The parties will conduct a Rule 26(f) conference by no later than February 13, 2012 and
8 will file a Joint Case Management Statement by February 16, 2012.

9 4. If the parties have not reached a resolution of this matter by February 16, 2012, the
10 parties shall inform the Court in their Joint Case Management Statement and set a briefing schedule
11 for a motion to dismiss or address whether Plaintiffs may file an amended complaint.

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13
14 DATED: January 11, 2012

Respectfully submitted,

GIBSON, DUNN & CRUTCHER LLP

By: /s/ S. Ashlie Beringer
S. Ashlie Beringer

Attorneys for Defendants
SPACE PENCIL, INC. D/B/A KISSMETRICS
and GIGA OMNI MEDIA, INC.

DURIE TANGRI LLP

By: /s/ Michael H. Page
Michael H. Page

Attorneys for Defendants
SITENING LLC, FLITE, INC., MODULAR
PATTERNS, LTD., and ETSY, INC.

LAW OFFICES OF STEVEN A. ELLENBERG

By: /s/ Mark V. Boennighausen
Mark V. Boennighausen

1 **ATTORNEY ATTESTATION**

2 Pursuant to General Order 45, I, S. Ashlie Beringer, hereby attest that concurrence in the
3 filing of this document has been obtained from the above-listed counsel.

4
5 DATED: January 11, 2012

/s/ S. Ashlie Beringer
S. Ashlie Beringer

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9 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

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11 Dated: 1/18/2012



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