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

21 BRIGHTEDGE TECHNOLOGIES, INC.,
 22 Plaintiff,
 23 v.
 24 SEARCHMETRICS GMBH. ET AL.,
 25 Defendants.

Case No.4:14-cv-01009-HSG

**STIPULATION REGARDING A
 TEMPORARY STAY AND ~~PROPOSED~~
 ORDER TO ALLOW THE PARTIES TO
 PURSUE SETTLEMENT AND
 MEDIATION**

1 IT IS HEREBY STIPULATED AND AGREED, pursuant to the Court’s July 18, 2017
2 Order (Dkt. No. 142), by and between Plaintiff BrightEdge Technologies, Inc. (“BrightEdge”) and
3 Defendants Searchmetrics, GmbH and Searchmetrics, Inc. (collectively, “Searchmetrics”) through
4 their undersigned counsel, as follows:

5 WHEREAS on May 2, 2017 the Court lifted the stay in the current case and directed the
6 parties to submit a proposed case schedule;

7 WHEREAS on May 8, 2017, Defendant Searchmetrics, Inc. filed a petition for Chapter 11
8 bankruptcy with the United States Bankruptcy Court for the District of Delaware, instituting an
9 automatic stay pursuant to 11 U.S.C. § 362;

10 WHEREAS on July 17, 2017, the United States Bankruptcy Court for the District of
11 Delaware entered an order dismissing the bankruptcy petition and lifting the automatic stay (*see*
12 Dkt. No. 141);

13 WHEREAS on July 18, 2017, the Court ordered the parties to “meet and confer regarding
14 a proposed case schedule through claim construction and to e-file a stipulation and proposed order
15 setting out the schedule” by July 28, 2017 (Dkt. No. 142);

16 WHEREAS the parties have agreed in principal to further settlement discussions, including
17 a personal face-to-face meeting between the principals of all three parties mediated by Tony
18 Piazza to occur on Tuesday, August 1;

19 WHEREAS Searchmetrics, Inc. has represented that, if settlement discussions and
20 mediation fail, it will likely file for Chapter 7 liquidation, again imposing an automatic stay in this
21 case and related litigation;

22 WHEREAS the parties believe that an interim two-week stay will foster settlement
23 discussions and the anticipated mediations, preserve the status quo, and preserve the resources of
24 the parties and the Court;

25 WHEREAS at the end of the interim two-week stay the parties will advise whether a
26 settlement in principle has been reached or is anticipated and, if not, will submit a proposed case
27 schedule pursuant to the Court’s July 18, 2017 order;

28 IT IS HEREBY STIPULATED that the case be temporarily stayed, subject to the
following conditions:

1. The case is stayed until August 11, 2017;

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2. On or prior to August 11, 2017, the parties may submit a stipulation establishing good cause for a continuation of the stay due to a settlement in principle or anticipated, accompanied by a proposed order.

In the alternative, if the Court wishes to enter a proposed case schedule at this time, the parties have met and conferred in an attempt to negotiate a case schedule. The parties were unable to reach agreement on a case schedule, and have presented each of their proposed schedules as a draft proposed order, Exhibit A hereto.

DATED: July 28, 2017

Respectfully submitted,

BAKER BOTTS L.L.P.

By: /s/ Jon Swenson

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Attorneys for Plaintiff
BRIGHTEDGE TECHNOLOGIES, INC.

DATED: July 28, 2017

Respectfully submitted,

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By: /s/ Carrie Williamson (by permission)

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~~PROPOSED ORDER~~

PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED.

Dated: 7/31/2017


Hon. Haywood S. Gilliam, Jr.