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12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 SAN JOSE DIVISION

15 DIGITAL ENVOY, INC.,
 16 Plaintiff/Counterdefendant,
 17 v.
 18 GOOGLE, INC.,
 19 Defendant/Counterclaimant.

Case No. C 04 01497 RS

**STIPULATION AND [PROPOSED]
 ORDER RE: AMENDING SCHEDULING
 ORDER**

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1 Digital Envoy, Inc. (“Digital Envoy”) and Google Inc. (“Google”) submit, through their
2 counsel of record, this stipulation and proposed order to amend the Case Scheduling Order entered
3 by the Court in this matter on August 27, 2004, and amended by Order of the Court on July 28,
4 2005. Digital Envoy states that the parties currently have a discovery dispute, which they are
5 attempting to resolve by agreement or, if necessary, by motion. Digital Envoy states that these
6 proposed amendments to the Scheduling Order will serve the interests of efficiency and economy,
7 and anticipates that the dispute will be resolved by agreement or order of the Court in advance of
8 the proposed amended dates. Google does not agree with these statements, but does not oppose
9 Digital Envoy’s proposed amendment. Therefore, through their undersigned counsel, Digital
10 Envoy requests and Google does not oppose an amendment to the Scheduling Order as follows:

11 1. EXPERT WITNESSES: The disclosure and discovery of expert witness opinions
12 shall proceed as follows:

13 a. On or before **December 19, 2005**, plaintiff shall disclose expert testimony and
14 reports in accordance with Federal Rule of Civil Procedure 26(a)(2);

15 b. On or before **January 31, 2006**, defendant shall disclose expert testimony and
16 reports in accordance with Federal Rule of Civil Procedure 26(a)(2);

17 c. On or before **February 24, 2006**, all discovery of expert witnesses pursuant to
18 Federal Rule of Civil Procedure 26(b)(4) shall be completed.

19 2. PRETRIAL MOTIONS: All pretrial motions must be filed and served pursuant to
20 Civil Local Rule 7. All pretrial motions shall be **heard** no later than **March 15, 2006**.

21 In all other respects the Scheduling Order as amended remains in full force and effect.
22 Nothing in the parties’ stipulation shall operate to re-open fact discovery or extend the period for
23 fact discovery. Nothing in the parties’ stipulation shall prohibit any party from seeking to amend
24 this or any subsequent Scheduling Order if it believes that such relief is warranted.

25 IT IS SO STIPULATED.

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27 *[SIGNATURES ON FOLLOWING PAGE]*

