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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

MANDANA D. FARHANG,
 Plaintiff,
 v.
 INDIAN INSTITUTE OF TECHNOLOGY
 KHARAGPUR; TECHNOLOGY
 ENTREPRENEURSHIP AND TRAINING
 SOCIETY; PARTHA P. CHAKRABARTI;
 PALLAB DASGUPTA; PRAVANJAN
 CHOUDHRY; SUBRAT PANDA;
 ANIMESH NASKAR; and DOES 1-100,
 Defendants.

Case No. C-08-02658-RMW (HRL)

**STIPULATION AND ORDER RE SEQUENCING
 DEFENDANT IITS MOTIONS TO
 DISMISS FIRST AMENDED
 COMPLAINT**

1 Defendant Indian Institute of Technology, Kharagpur through its undersigned counsel,
2 and Plaintiff *pro se* Mandana D. Farhang hereby submit this Stipulation and [Proposed] Order
3 asking the Court to sequence IIT's pending Motions to Dismiss, such that its Motion to Dismiss
4 for Lack of Jurisdiction shall be heard first and, if necessary, its Motion to Dismiss pursuant to
5 Rule 12(b)(6) heard at later time.

6 **WHEREAS**, Farhang filed a First Amended Complaint on July 7, 2009.

7 **WHEREAS**, Defendant IIT filed two motions to dismiss the First Amended Complaint.
8 The first Motion is based on the Court's lack of personal and subject matter jurisdiction, as well
9 as the doctrine of forum *non conveniens*. IIT's second motion to dismiss is based on Rule
10 12(b)(6) of the Federal Rules of Civil Procedure.

11 **WHEREAS**, Farhang sought IIT's consent to file a Second Amended Complaint. IIT
12 contends a second amendment is likely futile and, in any event, should not be permitted unless the
13 Court determines it may properly exercise personal jurisdiction over IIT, that it has subject matter
14 jurisdiction over Farhang's claims, and the Northern District is the proper forum to consider
15 Farhang's claims.

16 **WHEREAS**, this Stipulation shall in no way constitute consent by IIT to this Court's
17 jurisdiction, nor waiver of IIT's assertion of sovereign immunity.

18 **THEREFORE**, the parties stipulate as follows:

19 1. IIT's Motion to Dismiss for Lack of Jurisdiction and Forum *Non Conveniens* shall be
20 resolved before Farhang is required to respond to IIT's Motion to Dismiss or otherwise seek leave
21 of the Court to file a Second Amended Complaint.

22 2. The pending motion to dismiss for failure to state a claim is STAYED pending
23 resolution of the Motion to Dismiss for Lack of Jurisdiction and Forum *Non Conveniens*.

24 3. Should IIT's Motion to Dismiss for Lack of Jurisdiction and Forum *Non Conveniens*
25 be denied, IIT may re-notice its motion to dismiss for failure to state a claim.

26 4. This order and attached stipulation shall not be considered consent by IIT to this
27 Court's jurisdiction, nor waiver of IIT's assertion of sovereign immunity.

28 5. IIT may rely upon allegations in the Complaint and First Amended Complaint in

1 furtherance of its challenges set forth in the Motion to Dismiss for Lack of Jurisdiction and
2 *Forum Non Conveniens*.

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Dated: August 20, 2009

ORRICK, HERRINGTON & SUTCLIFFE LLP

/s/ I. Neel Chatterjee /s/
I. NEEL CHATTERJEE
Attorneys for Defendants
INDIAN INSTITUTE OF TECHNOLOGY
KHARAGPUR

Dated: August 20, 2009

/s/ Mandana D. Farhang /s/
MANDANA D. FARHANG
Plaintiff, appearing *pro se*

Filer's Attestation: Pursuant to General Order No. 45, §X(B), I attest under penalty of perjury that concurrence in the filing of the document has been obtained from its signatory.

Dated: August 20, 2009

Respectfully submitted,

/s/ I. Neel Chatterjee /s/
I. Neel Chatterjee

1 **ORDER**

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3 **GOOD CAUSE HAVING BEEN SHOWN,**

4 1. The hearing on IIT's Motion to Dismiss for Lack of Personal Jurisdiction, Lack of
5 Subject Matter Jurisdiction and Pursuant to the Doctrine of Forum *Non Conveniens* shall remain
6 on calendar for September 25, 2009. The Parties' Opposition and Reply papers are due on
7 August 31, 2009, and September 11, 2009, respectively.

8 2. The pending motion to dismiss for failure to state a claim is STAYED pending
9 resolution of the Motion to Dismiss for Lack of Jurisdiction and Forum *Non Conveniens*. IIT
10 shall re-notice its Motion to Dismiss pursuant to Fed.R.Civ.P. 12(b)(6) if the Court denies IIT's
11 Motion to Dismiss for Lack of Jurisdiction. Notice shall be given pursuant to Civil Local Rule 7-
12 2, and the Parties' Opposition and Reply papers shall be filed in accordance with Civil Local Rule
13 7-3.

14 3. This order and attached stipulation shall not be considered consent by IIT to this
15 Court's jurisdiction, nor waiver of IIT's assertion of sovereign immunity.

16 4. IIT may rely upon allegations in the Complaint and First Amended Complaint in
17 furtherance of its challenges set forth in the Motion to Dismiss for Lack of Jurisdiction and
18 Forum *Non Conveniens*.

19 **IT IS SO ORDERED.**

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22 Dated: 8/25/09



Honorable Ronald M. Whyte
United States District Judge
Northern District of California

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CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on August 20, 2009.

Dated: August 20, 2009

Respectfully submitted,

/s/ I. Neel Chatterjee /s/
I. Neel Chatterjee