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 15 INTERNATIONAL BUSINESS MACHINES,
 16 INC.

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

17 JOHN SCHWARZKOPF,
 18 Plaintiff,
 19 v.
 20 INTERNATIONAL BUSINESS MACHINES,
 21 INC.; AND DOES 1 THROUGH 20,
 22 Defendants.

Case No. 08-02715 JF RS

**JOINT STIPULATION REGARDING
 SCHEDULING OF EARLY
 SETTLEMENT CONFERENCE AND
 RESCHEDULING OF FURTHER
 CASE MANAGEMENT
 CONFERENCE; PROPOSED ORDER**

Complaint filed: April 21, 2008

Further Case Management Conference:
 Date: December 5, 2008
 Time: 10:30 a.m.
 Location: Courtroom 3, 280 South First
 Street, San Jose
 United States District Ct. Judge: Hon.
 Jeremy Fogel

27 COMES NOW Plaintiff JOHN SCHWARZKOPF and Defendant INTERNATIONAL
 28 BUSINESS MACHINES, INC. (“IBM”), through their respective counsel, (Plaintiff and

1 Defendant are collectively referred to herein as “the Parties”) and jointly submit this Joint
2 Stipulation, as follows:

- 3 1. On September 26, 2008, the parties attended the initial case management conference in
4 this case before the Honorable Jeremy Fogel. On September 26, 2008, the parties jointly
5 requested, and they subsequently were ordered by the Court, to attend an early settlement
6 conference before the Honorable Richard Seeborg before the next case management
7 conference. The next case management conference is scheduled for December 5, 2008 at
8 10:30 a.m. before Judge Fogel;
- 9 2. Counsel for Defendant contacted Judge Seeborg’s chambers after the initial case
10 management conference on September 26, 2008, and learned that Judge Seeborg will not
11 hold any settlement conferences during the months of November and December 2008.
12 In addition, defense counsel was informed that the first available date for an early
13 settlement conference before Judge Seeborg would be the third week in January of 2009.
14 In light of Judge Seeborg’s availability, the Parties and their counsel are currently
15 discussing their mutual availability to attend an early settlement conference beginning in
16 late January 2009 or as soon as possible thereafter;
- 17 3. In light of Judge Seeborg’s unavailability during the months of November and December
18 of 2008, counsel for the parties stipulate and agree that the further case management
19 conference currently scheduled for December 5, 2008 should be rescheduled to a later
20 date so that the parties can attend an early settlement conference before the next case
21 management conference. The parties stipulate that their prior agreement to suspend all
22 discovery until after the early settlement conference shall remain in full force and effect;
23 and
- 24 4. For the reasons stated herein, the Parties and their counsel respectfully request the further
25 case management conference currently scheduled for December 5, 2008 before Judge
26 Fogel be rescheduled to sometime in mid- to late-February 2009, or as soon thereafter as
27 Judge Fogel may be available, in order to enable the parties to attend an early settlement
28

1 conference before Judge Seeborg, as contemplated by the Court's order on September 26, 2008.

2 IT IS SO STIPULATED.

3 DATED: October 30, 2008

VINICK LAW FIRM

4
5 By: _____ /s/
6 Sharon R. Vinick
7 Emily Nugent
8 Attorneys for Plaintiff
9 JOHN SCHWARZKOPF

10 DATED: October 28, 2008

JACKSON LEWIS LLP

11
12 By _____ /s/
13 Mitchell F. Boomer
14 Cara Ching-Senaha
15 Attorneys for Defendant
16 INTERNATIONAL BUSINESS MACHINES,
17 INC.

18 **ORDER**

19 Upon consideration of the Parties' stipulation above, and finding GOOD CAUSE
20 THEREFOR, IT IS HEREBY ORDERED:

21 That the further case management conference scheduled for December 5, 2008 at 10:30
22 a.m. before the Honorable Jeremy Fogel shall be continued to February 27, 2009 at
23 10:30 a.m. It is further ordered that the parties shall have until January 80, 2008-
24 by which to participate in an early settlement conference before the Honorable Richard Seeborg.

25
26 DATED: 10/31/08, 2008

27 
United States District Court Judge Jeremy Fogel

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ESC and Further CMC Scheduling.doc