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22 Attorneys for Defendant International
23 Business Machines Corporation

24 UNITED STATES DISTRICT COURT
 25 NORTHERN DISTRICT OF CALIFORNIA
 26 SAN JOSE DIVISION

27 RSI CORP., dba RESPONSIVE
28 SYSTEMS COMPANY, a New Jersey
corporation,

Plaintiff,

vs.

INTERNATIONAL BUSINESS
MACHINES CORPORATION; and
DOE DEFENDANTS 1-20,

Defendants.

CASE NO. 5:08-cv-3414 (RMW/HRL)

**STIPULATION AND ~~PROPOSED~~
 ORDER CONTINUING HEARING
 DATE ON DEFENDANT IBM'S
 MOTION TO DISMISS AND CASE
 MANAGEMENT CONFERENCE
 FROM JANUARY 30, 2009 TO
FEBRUARY 20, 2009**

Crtrm.: 6, 4th Floor
 Judge: Hon. Ronald M. Whyte
 Prior Hrg. Date: January 30, 2009
 Prior Hrg. Time: 9:00 a.m.
 New Hrg. Date: February 20, 2009
 New Hrg. Time: 9:00 a.m.

1 WHEREAS, defendant International Business Machines Corporation's
2 ("IBM") motion to dismiss and strike and a related request for judicial notice, were
3 set for hearing on Friday, January 30, 2009 by stipulation;

4 WHEREAS, counsel for plaintiff RSI Corporation ("RSI") did not file any
5 opposition on January 9, 2009, as required by Civil Local Rule 7-3;

6 WHEREAS, defendant IBM is willing to continue the hearing of its motion
7 in order to permit RSI to file an opposition to IBM's motion; and

8 WHEREAS, there is presently a Case Management Conference scheduled to
9 coincide with the hearing on IBM's motions;

10 It is therefore stipulated between the Parties that:

- 11 1. The hearing on defendant IBM's motion to dismiss and strike and
12 accompanying request for judicial notice is continued to February 20, 2009;
- 13 2. RSI will file its opposition, if any, by January 23, 2009;
- 14 3. IBM will file its reply papers, if any, by February 6, 2009; and

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1 4. The Case Management Conference currently set for January 30, 2009
2 is continued to February 20, 2009.

3 DATED: January 13, 2009 SEVERSON & WERSON

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5 By Ryan C. Donlon
6 Ryan C. Donlon
7 Attorneys for Plaintiff RSI Corp.

8 DATED: January 13, 2009 QUINN EMANUEL URQUHART OLIVER &
9 HEDGES, LLP

10 By Shon Morgan
11 Shon Morgan
12 Attorneys for Defendant International
13 Business Machines Corporation

14 **IT IS SO ORDERED.**

15 Date: 1/20/09

16 *Ronald M. Whyte*
17 _____
18 Hon. Ronald M. Whyte