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**\*E-FILED - 1/21/09\***

6 Attorneys for Plaintiff  
 7 ACTUATE CORPORATION

8  
 9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 11 SAN JOSE DIVISION  
 12

13 ACTUATE CORPORATION, a Delaware  
 corporation,

Plaintiff,

v.

16 FEDERAL HOME LOAN MORTGAGE  
 17 CORPORATION, a federally-chartered  
 corporation,

Defendant.

) CASE NO.: 08-CV-5076 RMW  
 )  
 ) ~~PROPOSED~~  
 ) **STIPULATION AND ORDER REGARDING FEDERAL**  
 ) **HOME LOAN MORTGAGE**  
 ) **CORPORATION'S CESSATION OF ITS**  
 ) **USE OF CERTAIN ACTUATE**  
 ) **SOFTWARE**

Before: Hon. Ronald M. Whyte

1           WHEREAS, plaintiff Actuate Corporation ("Actuate") licensed defendant Federal Home  
2 Loan Mortgage Corporation ("Freddie Mac") to use certain software for which Actuate holds  
3 registered United States copyrights, including the "Actuate iServer," "eReport Option,"  
4 "eSpreadsheet Option", "Data Integration Option," "Developer Workbench aka ERDPRO," "End  
5 User Desktop," "eSpreadsheet Designer" and "Information Object Design" software  
6 (collectively, the "Actuate Software"), pursuant to license agreements between Actuate and  
7 Freddie Mac which Actuate license agreements have been terminated;

8           WHEREAS, Actuate filed the complaint herein on November 6, 2008, asserting claims  
9 for breach of contract and copyright infringement against Freddie Mac stemming from Freddie  
10 Mac's ongoing use of the Actuate Software;

11           WHEREAS, Actuate believes it is incurring ongoing harm from what it asserts is Freddie  
12 Mac's continued unlicensed use of Actuate Software;

13           WHEREAS, Freddie Mac acknowledges its ongoing use of the Actuate Software;

14           WHEREAS, Actuate and Freddie Mac mutually desire to avoid the expense of motion  
15 practice in connection with a motion for a preliminary injunction, which Actuate believes is  
16 necessary to enjoin Freddie Mac from continuing what Actuate asserts is ongoing unlicensed use  
17 of Actuate Software;

18           WHEREAS, Actuate does not through this stipulation waive any of its claims for  
19 damages;

20           IT IS THEREFORE STIPULATED AND AGREED BY THE PARTIES, AND THE  
21 COURT HEREBY ORDERS, that Freddie Mac shall remove all copies of the Actuate Software  
22 from any servers controlled by Freddie Mac on or before December 31, 2008 and shall remove

23           **REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**


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1 the Actuate Software from its employees' laptop computers and desktop computers promptly  
2 thereafter.

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4 Respectfully submitted and so stipulated,

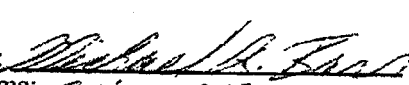
5 Dated: December 30, 2008

ACTUATE CORPORATION

6  
7 By:   
Name: Peter L. Citrodini  
Title: President + CEO

8 Dated: December 30, 2008

FEDERAL HOME LOAN MORTGAGE CORPORATION

9  
10 By:   
Name: MICHAEL R. ZERBE  
Title: VP Sales & Operations Services

11 APPROVED AS TO FORM:

12  
13 Dated: December 30, 2008  
14 31

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

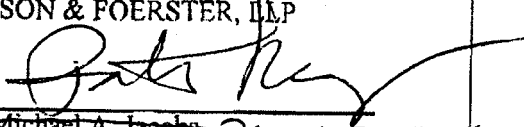
15  
16 By:   
Brian Mendonca

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21 Facsimile: (415) 947-2099

Attorneys for Plaintiff  
ACTUATE CORPORATION

22 Dated: December 30, 2008  
23 31

MORRISON & FOERSTER, LLP

24 By:   
← Michael A. Jacobs - PATRICK J. ZHANG

25 425 Market Street  
26 San Francisco, California 94105-248  
27 Telephone:  
28 Facsimile:  
E-mail:

Attorneys for Defendant  
FEDERAL HOME LOAN MORTGAGE CORPORATION

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IT IS SO ORDERED:

Dated: 1/21/09

By: Ronald M. Whyte  
Hon. Ronald M. Whyte

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7 Attorneys for Plaintiff  
ACTUATE CORPORATION

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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION

12 ACTUATE CORPORATION, a Delaware corporation,  
13  
14 Plaintiff,  
15 v.  
16 FEDERAL HOME LOAN MORTGAGE CORPORATION, a federally-chartered corporation,  
17  
18 Defendant.

) CASE NO.: CV 08 5076  
)  
)  
) **CERTIFICATE OF SERVICE**  
)  
)  
) JURY TRIAL DEMANDED  
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1 **CERTIFICATE OF SERVICE**

2  
3 I, Shirley R. Frazier, declare:

4 I am employed in San Francisco County, State of California. I am over the age of 18  
5 years and not a party to the within action. My business address is Wilson Sonsini Goodrich &  
6 Rosati, One Market, Spear Tower, Suite 3300, San Francisco, California 94105.

7 On this date, I served:

8 **1. STIPULATION AND [PROPOSED] ORDER REGARDING FEDERAL**  
9 **HOME LOAN MORTGAGE CORPORATION'S CESSATION OF ITS**  
10 **USE OF CERTAIN ACTUATE SOFTWARE**

11  By placing the document(s) in a sealed envelope for collection and mailing with  
12 the United States Postal Service on this date to the following person(s):

13 Michael Jacobs, Esq.  
14 Morrison & Foerster, LLP  
15 425 Market Street  
16 San Francisco, CA 94105-2482

17  By consigning the document(s) to an express mail service for guaranteed next day  
18 delivery to the following person(s):

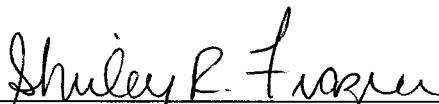
19  By consigning the document(s) to a messenger for guaranteed hand delivery on  
20 this date to the following person(s):

21  By consigning the document(s) to a facsimile operator for transmittal on this date  
22 to the following person(s):

23  By forwarding the document(s) by electronic transmission on this date, in  
24 compliance with Civil L.R. 23-2, to the Designated Internet Site(s) listed below:

25 I am readily familiar with Wilson Sonsini Goodrich & Rosati's practice for collection and  
26 processing of documents for delivery according to instructions indicated above. In the ordinary  
27 course of business, documents would be handled accordingly.

28 I declare under penalty of perjury under the laws of the State of California that the  
foregoing is true and correct. Executed at San Francisco, California on December 31, 2008.

  
Shirley R. Frazier