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**\*E-FILED - 1/14/10\***

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

12 Gregory Bender,  
 13 Plaintiff,  
 14 v.  
 15 International Business Machines  
 Corporation,  
 16 Defendant.  
 17

Case No. C09-01249-RMW  
**STIPULATION AND []  
 ORDER RESCHEDULING  
 FURTHER CASE MANAGEMENT  
 CONFERENCE**

18 Pursuant to Civil L.R. 6-2, Defendant International Business Machines Corporation  
 19 (“Defendant”) and Plaintiff Gregory Bender (“Plaintiff”) through their respective counsel, hereby  
 20 jointly request that the Court change the time for the parties’ Further Case Management  
 21 Conference, currently scheduled on January 15, 2010, at 10:30 a.m., to February 26, 2010, at  
 22 10:30 a.m., or anytime thereafter.

23 WHEREAS, pursuant to the October 30, 209, Order After Hearing in this action (D.I. 35),  
 24 a Further Case Management Conference in this action is scheduled for January 15, 2010, to work  
 25 out a schedule for the case.

26 WHEREAS, the parties are currently attempting to resolve a dispute related to Plaintiff’s  
 27 amended infringement contentions, and this Court has ordered that Defendant file its discovery  
 28

1 motion challenging Plaintiff's amended infringement contentions by January 13, 2010. (*See* D.I.  
2 39.)

3 WHEREAS, the outcome of the parties' discovery dispute will impact the schedule for  
4 this case, which is to be discussed at the Further Case Management Conference.

5 WHEREAS, the parties believe that, in the interests of efficiency and of avoiding  
6 potentially unnecessary expenses, the Further Case Management Conference that is currently  
7 scheduled for January 15, 2010, should be continued until February 26, 2010.

8 WHEREAS, the following time modifications have previously occurred in this case:

- 9 • On October 29, 2009, the Court temporarily relieved Defendant of its obligations  
10 to produce technical information under the Federal Rules and its obligations to  
11 serve its Patent L.R. 3-3 and 3-4 disclosures. (D.I. 30.) The Court affirmatively  
12 left this stay in place on November 13, 2009. (D.I. 37.)
- 13 • On December 28, 2009, the Court extended the deadline for Defendant to file its  
14 discovery motion pursuant to the Court's Order of November 13, 2009, (D.I. 37)  
15 from December 28, 2009, until January 13, 2010. (D.I. 39.)

16 WHEREAS, the requested time modification would have no effect on the schedule for the  
17 case as no schedule has yet been entered in this case.

18  
19 THE PARTIES HEREBY STIPULATE THAT:

20 1. The Further Case Management Conference that is currently scheduled for January 15,  
21 2010, at 10:30 a.m., is continued to February 26, 2010, at 10:30 a.m.

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Respectfully submitted,

Dated: January 8, 2010

Jones Day

By:           /s/ Gregory Lippetz            
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Counsel for Defendant International Business  
Machines Corporation

In accordance with General Order No. 45, Section X(B), the above signatory attests that  
concurrence in the filing of this document has been obtained from the signatory below.

Dated: January 8, 2010

By:           /s/ David Kuhn            
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Telephone: (510) 653-4983

Counsel for Plaintiff Gregory Bender

**PURSUANT TO STIPULATION, IT IS SO ORDERED:**

DATED:   1/14/10  ,

By:           *Ronald M. Whyte*            
THE HON. RONALD M. WHITE  
United States District Court Judge