

1 Gregory L. Lippetz (State Bar No. 154228)
 2 glippetz@jonesday.com
 3 JONES DAY
 4 1755 Embarcadero Road
 5 Palo Alto, CA 94303
 6 Telephone: 650-739-3939
 7 Facsimile: 650-739-3900

David N. Kuhn - State Bar No. 73389
 Attorney-at-Law
 144 Hagar Avenue
 Piedmont, CA 94611
 Telephone: (510)653-4983
 E-mail: dnkuhn@pacbell.net

Attorney for Plaintiff Gregory Bender

Attorneys for Defendant
 International Business Machines Corporation

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

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

Case No. C 09-01249 RMW (PVT)

**STIPULATION AND ORDER
 EXTENDING DEADLINE FOR
 IBM TO FILE ITS DISCOVERY
 MOTION RELATED TO BENDER'S
 AMENDED INFRINGEMENT
 CONTENTIONS**

19 Pursuant to Civil L.R. 6-2, Defendant International Business Machines Corporation
 20 ("Defendant") and Plaintiff Gregory Bender ("Plaintiff") through their respective counsel, hereby
 21 jointly request that the Court change the deadline for Defendant to file its discovery motion
 22 challenging Bender's revised infringement contentions, currently scheduled for Wednesday,
 23 January 27, 2010, to Tuesday, February 2, 2010.

24 WHEREAS, pursuant to the November 13, 2009, Order Granting in Part Defendant's
 25 Motion to Compel, this Court ordered Plaintiff to submit revised infringement contentions no
 26 later than 30 days from the entry of the order and permitted Defendant 14 days from the date the
 27 revised infringement contentions were served to file a new motion challenging the infringement
 28 contentions. (*See* D.I. 37.)

1 WHEREAS, on stipulated requests from the parties, the Court extended the deadline for
2 Defendant to file its discovery motion twice, resulting in a deadline of Wednesday, January 27,
3 2010. (*See* D.I. 39 and D.I. 44.)

4 WHEREAS, after the second stipulated request extending the deadline for the discovery
5 motion was filed on January 12, 2010, the referral of all discovery matters in this case to Judge
6 Richard Seeborg was withdrawn and discovery matters were instead referred to Magistrate Judge
7 Patricia Trumbull on January 14, 2010. (*Compare* D.I. 41 with D.I. 42.)

8 WHEREAS, Magistrate Judge Trumbull holds civil law and motion hearings on Tuesdays,
9 unlike Judge Seeborg, who holds civil law and motion hearings on Wednesdays.

10 WHEREAS, the parties believe that in the interests of efficiency, the deadline for
11 Defendant to file its discovery motion challenging Bender's revised infringement contentions
12 should be moved from Wednesday, January 27, 2010, to Tuesday, February 2, 2010.

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

- 14 • On October 29, 2009, the Court temporarily relieved Defendant of its obligations
15 to produce technical information under the Federal Rules and its obligations to
16 serve its Patent L.R. 3-3 and 3-4 disclosures pending the outcome of a further
17 discovery motion by Defendant of Plaintiff's revised infringement contentions.
18 (D.I. 30.) The Court has affirmatively left this stay in place since that time. (*See*
19 D.I. 37, D.I. 39, and 44.)
- 20 • On stipulated requests from the parties, the Court extended the deadline for
21 Defendant to file its discovery motion pursuant to the Court's Order of November
22 13, 2009 twice, resulting in a deadline of Wednesday, January 27, 2010. (*See* D.I.
23 39 and D.I. 44.)
- 24 • On January 14, 2010, on stipulated request from the parties, the Court rescheduled
25 the parties' Further Case Management from January 15, 2010 to February 26, 2010.
26 (*See* D.I. 43.)

27 WHEREAS, the requested time modification would have no effect on the schedule for the
28 case or for the remainder of the briefing for the discovery because under Civil L.R. 7-2, the

1 change would not impact the noticed hearing date for the discovery motion.

2

3 THE PARTIES HEREBY STIPULATE THAT:

4 1. The deadline for Defendant to file its discovery motion challenging Bender's revised
5 infringement contentions, currently scheduled for Wednesday, January 27, 2010, shall be moved
6 to Tuesday, February 2, 2010.

7 2. The parties further stipulate that the Court's order granting Defendant temporary relief
8 from its discovery obligations shall remain in place until the dispute is resolved.

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Respectfully submitted,

10 Dated: January 26, 2010

Jones Day

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By: /s/ Gregory Lippetz

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Greg L. Lippetz
State Bar No. 154228
JONES DAY
Silicon Valley Office
1755 Embarcadero Road
Palo Alto, CA 94303
Telephone: 650-739-3939
Facsimile: 650-739-3900

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Counsel for Defendant International Business
Machines Corporation

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PURSUANT TO STIPULATION, IT IS SO ORDERED:

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DATED: 2/2/10

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By: *Patricia V. Trumbull*

23

THE HON. PATRICIA TRUMBULL

24

United States Magistrate Judge

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