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12 Attorneys for Defendant
 INTERNATIONAL BUSINESS MACHINES
 13 CORPORATION

14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA—SAN JOSE DIVISION

16
 17 MILLIE HSU,
 18 Plaintiff,
 19 v.
 19 INTERNATIONAL BUSINESS MACHINES
 20 CORPORATION, and DOES 1 THROUGH
 10, inclusive,
 21 Defendants.

Case No. C 09-03506 JW

**STIPULATION AND [PROPOSED]
 ORDER CLARIFYING DISCOVERY
 DEADLINES**

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 25 Plaintiff Millie Hsu (“HSU”) and Defendant International Business Machines Corporation
 26 (“IBM”), by and through their respective counsel, hereby submit the following Stipulation and
 27 [Proposed] Order.

1 The parties hereby agree on the following:

2 1. On January 14, 2010 the parties filed a Joint Case Management Statement and
3 Proposed Order. In that Joint Case Management Statement, at paragraph 17, the parties
4 agreed upon and proposed the following schedule:

- | | |
|-------------------------------------|------------|
| 5 a. Discovery cut-off | 10/29/2010 |
| 6 b. Hearing on dispositive motions | 2/4/2011 |
| 7 c. Designation of experts | 2/11/2011 |
| 8 d. Expert discovery cutoff | 3/18/2011 |
| 9 e. Pre-trial Disclosures | 4/29/2011 |
| 10 f. Pre-trial conference | 5/20/2011 |
| 11 g. Trial | 6/06/2011 |

12 2. No trial dates has yet been set.

13 3. On January 21, 2010, the Court issued a Scheduling Order. In the Scheduling
14 Order, at paragraph 2, the Court ordered that it **“adopts the Discovery Plan proposed by the**
15 **parties in their Joint Case Management Statement.”**

16 4. The parties have proceeded with this action applying the discovery plan they
17 proposed in their January 14, 2010 Joint Case Management Statement, as set forth in paragraph
18 1 above.

19 5. However, upon further review, both counsel have noted that, in the Court’s
20 January 21, 2010 Scheduling Order, at paragraph 4 and in the section entitled “Case Schedule”
21 the Court has set forth a different discovery schedule that contradicts with the one adopted.

22 6. The parties believe that the Court also intended to follow the discovery schedule
23 proposed in the January 14, 2010 Joint Case Management Statement. *See* the Court’s June 17,
24 2010 Order denying the parties request to extend the deadlines, and referring to the October 29,
25 2010 deadline for the close of discovery.

26 7. One issue raised by the Court’s Scheduling Order is that it appears to set the
27 deadline for the designation and disclosure of experts to be August 16, 2010, “63 days before the

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1 close of discovery.” Order at paragraph 4. This contradicts the deadline adopted of February
2 11, 2011.

3 8. The parties have begun the discovery process. One day of the deposition of
4 Plaintiff is concluded, with a second date set for August 16, 2010. The depositions of two IBM
5 employees are currently set for mid-August. Defendant has produced documents in response to
6 the first-round of discovery requests on July 29, 2010 and August 4, 2010.

7 9. While the parties are moving forward with discovery, they were not anticipating,
8 and cannot be prepared to determine at this time, what experts, if any, will be necessary for this
9 litigation. In sum, neither party is in a position to comply with the suggested deadline of August
10 16, 2010 for the designation of experts.


11 10. As the parties have proceeded thus far in following with the discovery deadlines
12 set forth in their Joint Case Management Statement, and that they believe these deadlines had
13 been adopted by the Court, the parties hereby seek that the Court order that the following
14 discovery deadlines apply to this case hereafter:

- | | |
|--------------------------------------|------------|
| 15 a. Discovery cut-off | 10/29/2010 |
| 16 b. Hearing on dispositive motions | 2/4/2011 |
| 17 c. Designation of experts | 2/11/2011 |
| 18 d. Expert discovery cutoff | 3/18/2011 |

19 IT IS SO STIPULATED:

20 DATED: August 5, 2010

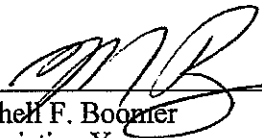
MINAMI TAMAKI LLP

21
22 By 
23 Brad Yamauchi
24 Bethany Caracuzzo
25 Attorneys for Plaintiff
26 MILLIE HSU
27
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1 DATED: August 5, 2010

JACKSON LEWIS LLP

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By 
Mitchell F. Boomer
S. Christine Young
Attorneys for Defendant
INTERNATIONAL BUSINESS MACHINES
CORPORATION

~~James Ware~~
[PROPOSED] ORDER

PURSUANT to this Court's Order of January 21, 2010, at paragraph 2, and by stipulation of the parties, IT IS SO ORDERED that the following deadlines shall apply to this matter:

- a. Discovery cut-off 10/29/2010
- b. Hearing on dispositive motions 2/4/2011
- c. Designation of experts 2/11/2011
- d. Expert discovery cutoff 3/18/2011

Dated: August 10, 2010


HON. JAMES WARE
UNITED STATES DISTRICT COURT JUDGE