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11  
12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

14  
15 FEDERAL TRADE COMMISSION,

16 Plaintiff,

17 v.

18 SWISH MARKETING, INC., a corporation,

19 MARK BENNING, individually and as an  
20 officer of SWISH MARKETING, INC.,

21 MATTHEW PATTERSON, individually and  
22 as an officer of SWISH MARKETING, INC.,  
and

23 JASON STROBER, individually and as an  
24 officer of SWISH MARKETING, INC.,

25 Defendants.

Case No. C09-03814 -RS

**SECOND STIPULATION AND  
[PROPOSED] ORDER TO  
SUSPEND AND REVISE  
DISCOVERY SCHEDULE**

26 Pursuant to Local Rule 6-2, the parties, by and through their respective attorneys, hereby  
27 stipulate to and respectfully request this Court suspend and revise the discovery schedule in this  
28 case so that the FTC may consider proposed settlements with the remaining individual

**2<sup>nd</sup> STIPULATION TO EXTEND DISCOVERY SCHEDULE - C09 3814 RS**

1 defendants.

2 1. On November 19, 2010, the parties participated in a settlement conference with  
3 Magistrate Judge Spero.

4 2. During that settlement conference and over the past several weeks, the parties have made  
5 great progress towards resolving this matter as it relates to the remaining individual defendants,  
6 Mark Benning and Matthew Patterson. As a result of those talks, defendants Benning and  
7 Patterson have signed stipulated final judgments that would resolve this case as to them. Those  
8 settlements have not been formally approved by the Commission. If approved, the parties  
9 anticipate that they will seek only limited additional fact discovery, if any.

10 3. At this time, the FTC and defendant Swish Marketing, Inc., do not expect to reach a  
11 settlement in this matter. The FTC plans to file a motion for summary judgment as to defendant  
12 Swish Marketing, Inc.

13 4. The parties hereby request the Court suspend temporarily discovery in this matter so that  
14 the Commission may review the proposed settlements with defendants Benning and Patterson.

15 5. Thus, the parties request that the Court modify the discovery schedule in accordance with  
16 the table below.

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<b>Matter</b>	<b>Current Date</b>	<b>Proposed Date</b>
18 Non-Expert Discovery Resumes	N/A	2/28/2011
19 Non-Expert Discovery Cut-Off	1/28/2011	4/14/2011
20 FTC's Designation of Expert Testimony 21 and Reports	2/7/2011	4/25/2011
22 Defendants' Designation of Expert 23 Testimony and Reports	3/7/2011	5/23/2011
24 Expert Discovery Cut-Off	5/4/2011	7/19/2011

25 6. This motion is the second request for an extension of time relating to the discovery  
26 schedule.

