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UNITED STATES DISTRICT COURT

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NORTHERN DISTRICT OF CALIFORNIA

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SAN JOSE DIVISION

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18 ACTUATE CORPORATION, a California)	CASE NO. 5:10-cv-02797-EJD
corporation)	
)	
19 Plaintiff,)	STIPULATION AND ORDER
)	EXTENDING SCHEDULED DATES
20 vs.)	AND GRANTING LEAVE TO FILE
)	FIRST AMENDED ANSWER TO
21 FINITI LLC; and DOES 1 through 10,)	COMPLAINT AND COUNTER-
)	CLAIMS; DECLARATION OF
22 Defendants.)	JAN J. KLOHONATZ
)	
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STIPULATION AND ORDER EXTENDING SCHEDULED DATES AND GRANTING LEAVE TO FILE FIRST
 AMENDED ANSWER TO COMPLAINT AND COUNTER-CLAIMS; DECLARATION OF JAN J. KLOHONATZ
 CASE NO. 5:10-cv-02707-EJD

1 By this stipulation and order the parties to the above-captioned action respectfully
2 request (a) that defendant Finiti Group, LLC (“Finiti”) be granted leave to file a First Amended
3 Answer to Complaint and Counter-Claims, and (b) that certain dates on the case schedule be
4 extended for the reasons stated below. There is no trial date in this case and the only date
5 currently on the Court’s calendar is a Preliminary Pretrial Conference set for December 16,
6 2011. Accordingly, the parties stipulate as follows:

7 WHEREAS, upon reassignment of the above-captioned case to the Honorable Edward J.
8 Davila, the Court on or about May 11, 2011 entered a Modified Scheduling Order;

9 WHEREAS, on or about July 29, 2011, this Court granted the parties request to make
10 certain modifications to the case schedule;

11 WHEREAS, the only date currently on the Court’s calendar is a Preliminary Pretrial
12 Conference set for December 16, 2011;

13 WHEREAS, the parties have already selected and retained a mediator and would like the
14 opportunity to conduct a meaningful mediation;

15 WHEREAS, plaintiff Actuate Corporation has stipulated that Finiti may be granted leave
16 to file a First Amended Answer to Complaint and Counter-Claims;

17 WHEREAS, certain discovery issues are pending which the parties are trying to work
18 out, and have participated in an person meeting on August 31, 2011;

19 WHEREAS, because of the witnesses’ and counsels’ schedules the parties have
20 encountered difficulties setting certain critical depositions, some of which will require extensive
21 travel;

22 WHEREAS, the parties also have determined that further discovery, in addition to what
23 previously was anticipated, will be necessary, including discovery relating to Finiti’s First
24 Amended Answer to Complaint and Counter-Claims, in order to conduct a meaningful
25 mediation, analyze and prepare dispositive motions, and prepare for trial;

26 WHEREAS, the parties would like the opportunity to engage in a mediation sufficiently
27 in advance of other events in the case schedule to see whether the case can be resolved, thus

1 making such other events unnecessary;

2 WHEREAS, the date for the last day to mediate has previously been modified twice by
3 stipulation and order and once by this Court's Modified Scheduling Order;

4 WHEREAS, the other dates sought to be moved by this stipulation and order were
5 modified in the Court's Modified Scheduling Order and in the July 29, 2011 stipulation and
6 order; and

7 WHEREAS, the time modifications will not have a material effect on the schedule of the
8 case because (a) a trial date has not yet been set, (b) the only date currently on the Court's
9 calendar – the December 16, 2011 Preliminary Pretrial Conference – will not be affected as the
10 parties are not asking to move that date, and (c) the parties are asking only that the specified
11 events be moved by no more than three (3) months, which will include the entire holiday season;

12 NOW, THEREFORE, WITH GOOD CAUSE APPEARING, the parties, by and through
13 their respective counsel, hereby stipulate and agree as follows:

14 The case schedule may be modified as follows:

15	Deadline for Completion of ADR/Mediation:	January 31, 2012
16	Close of All Discovery:	January 31, 2012
17	Last Date for Hearing Dispositive Motions:	April 27, 2012

18 Finiti may file a First Amended Answer to Complaint and Counter-Claims in the form
19 attached hereto as Exhibit A. Plaintiff expressly reserves the right to bring any Motion to
20 Dismiss or Strike the proposed First Amended Answer to Complaint and Counter-Claims and/or
21 any of the causes of action or allegations alleged therein.

23 Dated: September 29, 2011

STEYER LOWENTHAL BOODROOKAS
ALVAREZ & SMITH LLP

25 By: /s/ Jan J. Klohonatz
26 Jeffrey H. Lowenthal
27 Jan J. Klohonatz
Attorneys for Defendant Finiti Group, LLC

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Dated: September 29, 2011

LEE TRAN & LIANG APLC

By: /s/ Daniel Taylor
Daniel Taylor
Attorneys for Plaintiff Actuate Corporation

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Defendant shall file its First Amended Answer to Complaint and Counter-Claims as a separate docket entry on or before October 7, 2011.

Dated: October 5, 2011



EDWARD J. DAVILA
DISTRICT COURT JUDGE

1 to engage in a mediation sufficiently in advance of other events in the case schedule to see
2 whether the case can be resolved, thus making such other events unnecessary.

3 8. The date for the last day to mediate has previously been modified twice by
4 stipulation and order and once by this Court's Modified Scheduling Order.

5 9. The time modifications will not have a material effect on the schedule of the case
6 because (a) a trial date has not yet been set, (b) the only date currently on the Court's calendar –
7 the December 16, 2011 Preliminary Pretrial Conference – will not be affected as the parties are
8 not asking to move that date, and (c) the parties are asking only that the specified events be
9 moved by no more than three (3) months, which will include the entire holiday season.

10 I declare under penalty of perjury that the foregoing is true and correct. Executed this
11 29th day of September, 2011, at San Francisco, California.

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/s/ Jan J. Klohonatz
JAN J. KLOHONATZ

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CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2011, I electronically filed the foregoing STIPULATION AND ORDER EXTENDING SCHEDULED DATES AND GRANTING LEAVE TO FILE FIRST AMENDED ANSWER TO COMPLAINT AND COUNTER-CLAIMS; DECLARATION OF JAN J. KLOHONATZ with the Clerk of the Court using the ECF system which will send notification of such filing to all attorneys of record registered for electronic filing.

/s/ Linda Rorem
Linda Rorem