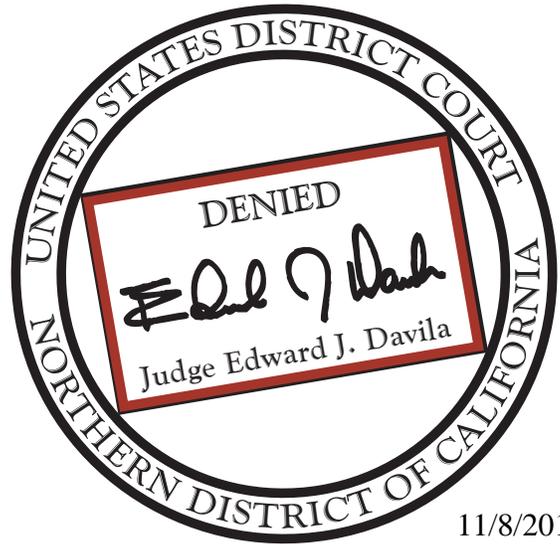


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11/8/2011

14  
 15 **UNITED STATES DISTRICT COURT**  
 16 **NORTHERN DISTRICT OF CALIFORNIA**  
 17 **SAN JOSE DIVISION**

<p>19 ACTUATE CORPORATION, a California )          20 corporation )          21 )          22 )          23 )          24 )          25 )          26 )          27 )          28 )</p>	<p>Plaintiff, )          vs. )          FINITI LLC; and DOES 1 through 10, )          Defendants. )</p> <hr style="width: 100%;"/> <p>AND RELATED COUNTER-CLAIMS. )</p> <hr style="width: 100%;"/>	<p>CASE NO. 5:10-cv-02797-EJD</p> <p>STIPULATION AND ORDER          REGARDING BRIEFING SCHEDULE          AND HEARING DATE ON MOTION TO          STRIKE FILED BY PLAINTIFF AND          COUNTER-DEFENDANT ACTUATE          CORPORATION; DECLARATION OF          JAN J. KLOHONATZ</p>
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1 By this stipulation and order the parties to the above-captioned action respectfully  
2 request (a) that the hearing on the Motion to Strike filed by plaintiff and counter-defendant  
3 Actuate Corporation (“Actuate’s Motion”), currently set to be heard on February 3, 2012, be  
4 reset to be heard on December 16, 2011, at the same time the parties appear for the Preliminary  
5 Pretrial Conference in this case, and (b) that the briefing schedule in connection with Actuate’s  
6 Motion be modified as set forth below. There is no trial date in this case and the only dates  
7 currently on the Court’s calendar are the Preliminary Pretrial Conference set for December 16,  
8 2011 and the hearing on Actuate’s Motion set for February 3, 2012. Accordingly, the parties  
9 stipulate as follows:

10 WHEREAS, pursuant to stipulated order, defendant and counter-claimant Finiti Group,  
11 LLC (“Finiti”) filed its First Amended Answer to Complaint and Counter-Claims on October 6,  
12 2011;

13 WHEREAS, on October 27, 2011 plaintiff and counter-defendant Actuate Corporation  
14 (“Actuate”) filed Actuate’s Motion, at which time Actuate’s counsel was advised that the next  
15 available hearing date on the Court’s calendar would be February 3, 2012;

16 WHEREAS, the parties currently are set to appear before the Court on December 16,  
17 2011 for a Preliminary Pretrial Conference and would like to have Actuate’s Motion heard at the  
18 same time;

19 WHEREAS, the parties have agreed that the briefing schedule on Actuate’s Motion be  
20 modified and that Finiti’s opposition be due on November 21, 2011 and that Actuate’s reply be  
21 due on December 2, 2011, such that the motion will be fully briefed two weeks before the  
22 hearing as contemplated by the Local Rules of the Northern District of California;

23 WHEREAS, the hearing date for Actuate’s Motion and the briefing schedule for that  
24 motion have not previously been modified;

25 WHEREAS, the time modifications requested in this stipulation and order will not have a  
26 material effect on the schedule of the case because (a) a trial date has not yet been set; and (b)  
27 there are only two dates currently on the Court’s calendar – the December 16, 2011 Preliminary  
28

1 Pretrial Conference, which will not be affected as the parties are not asking to move that date,  
2 and the February 3, 2012 hearing on Actuate's Motion, which the parties are asking be moved to  
3 an earlier date;

4 NOW, THEREFORE, WITH GOOD CAUSE APPEARING, the parties, by and through  
5 their respective counsel, hereby stipulate and agree (a) that the hearing on Actuate's Motion,  
6 currently set to be heard on February 3, 2012, be reset to be heard on December 16, 2011, at the  
7 same time the parties appear for the Preliminary Pretrial Conference in this case; and (b) that the  
8 briefing schedule on Actuate's Motion be modified so that Finiti's opposition is due on  
9 November 21, 2011 and Actuate's reply is due on December 2, 2011.

10  
11 Dated: November 4, 2011

STEYER LOWENTHAL BOODROOKAS  
ALVAREZ & SMITH LLP

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13 By: /s/ Jan J. Klohonatz  
14 Jeffrey H. Lowenthal  
15 Jan J. Klohonatz  
16 Attorneys for Defendant and Counter-Claimant  
17 Finiti Group, LLC

18  
19 Dated: November 4, 2011

LEE TRAN & LIANG APLC

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21 By: /s/ Daniel Taylor  
22 Daniel Taylor  
23 Attorneys for Plaintiff and Counter-Defendant  
24 Actuate Corporation

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26 PURSUANT TO STIPULATION, IT IS SO ORDERED.

27  
28 Dated: November \_\_\_\_, 2011

EDWARD J. DAVILA  
DISTRICT COURT JUDGE



1 Pretrial Conference, which will not be affected as the parties are not asking to move that date,  
2 and the February 3, 2012 hearing on Actuate's Motion, which the parties are asking be moved to  
3 an earlier date.

4 I declare under penalty of perjury that the foregoing is true and correct. Executed this 4th  
5 day of November, 2011, at San Francisco, California.

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7 /s/ Jan J. Klohonatz  
8 JAN J. KLOHONATZ

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