

1 Robert A. Mittelstaedt (State Bar No. 60359)
 2 ramittelstaedt@jonesday.com
 3 Craig A. Waldman (State Bar No. 229943)
 4 cwaldman@jonesday.com
 5 David C. Kiernan (State Bar No. 215335)
 6 dkiernan@jonesday.com
 7 Lin W. Kahn (State Bar No. 261387)
 8 linkahn@jonesday.com
 9 Peter A. Julian (State Bar No. 277673)
 10 pjulian@jonesday.com
 11 JONES DAY
 12 555 California Street, 26th Floor
 13 San Francisco, CA 94104
 14 Telephone: (415) 626-3939
 15 Facsimile: (415) 875-5700

16 Attorneys for Defendant
 17 Adobe Systems Inc.

18 [Additional counsel listed on signature page]

19 UNITED STATES DISTRICT COURT
 20
 21 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

22 IN RE: HIGH-TECH EMPLOYEE
 23 ANTITRUST LITIGATION

24 **Master Docket No. 11-CV-2509-LHK**

25 THIS DOCUMENT RELATES TO:
 26
 27 ALL ACTIONS

28 **STIPULATION AND ~~PROPOSED~~
 ORDER REGARDING DOCUMENT
 ADMISSIBILITY AND
 AUTHENTICATION**

1 The individual and representative plaintiffs Siddharth Hariharan, Brandon Marshall,
2 Michael Devine, Mark Fichtner, and Daniel Stover (“Plaintiffs”) and defendants Adobe Systems
3 Inc., Apple Inc., Google Inc., Intel Corp., Intuit Inc., Lucasfilm Ltd., and Pixar (“Defendants”),
4 by and through the undersigned counsel, hereby enter into this Stipulation, subject to court
5 approval, with reference to the following facts:

6 WHEREAS, the parties have collectively produced in excess of 340,000 documents in this
7 case, amounting to more than 1,825,000 pages;

8 WHEREAS, on February 27, 2013, Plaintiffs served on each Defendant Requests for
9 Admissions and the Third Set of Interrogatories regarding the authenticity and admissibility of
10 documents produced in this case;

11 WHEREAS, on March 12, 2013, Plaintiffs served on Defendants deposition notices
12 pursuant to Federal Rule of Civil Procedure 30(b)(6), seeking testimony related to, among other
13 things, the authenticity and admissibility of documents produced in this case;

14 WHEREAS, the fact discovery cutoff is March 29, 2013;

15 ACCORDINGLY, IT IS HEREBY STIPULATED, SUBJECT TO COURT APPROVAL,
16 that:

17 1. Plaintiffs withdraw the 30(b)(6) deposition notices served March 12, 2013.

18 2. Plaintiffs withdraw the February 27, 2013 Requests for Admissions and Third Set
19 of Interrogatories.

20 3. Except as provided herein, all documents produced by Plaintiffs or Defendants in
21 this case bearing a bates number are authentic true and correct copies of documents within the
22 possession, custody or control of the producing party, and the metadata and email header
23 information produced by Plaintiffs or Defendants accurately reflects the senders, recipients and/or
24 custodians of email and other documents.

25 4. Plaintiffs and Defendants reserve the right to challenge the authenticity of specific
26 documents and their associated metadata after another party identifies them for use in this case. If
27 a party challenges the authenticity of a document, the producing party will permit appropriate
28 discovery on the limited issue of authenticity of that specific document, without regard to the fact

1 discovery cutoff date.

2 5. Plaintiffs and Defendants will provide a list of documents that they request the
3 parties stipulate are business records pursuant to Federal Rule of Evidence 803(6). For any such
4 documents that any party declines to so stipulate, the producing party will permit appropriate
5 discovery on the limited issue of whether that specific document meets the business record
6 requirements of Rule 803(6), without regard to the discovery cutoff date.

7 6. The parties will agree to a schedule for the timing of the Plaintiffs' and
8 Defendants' identification of documents they intend to use and documents they request producing
9 parties stipulate are business records, the producing parties' response, and any related discovery.

10 7. Documents whose authenticity and business records status has been established
11 pursuant to this stipulation can be introduced into evidence without calling at trial a custodian of
12 the document as a sponsoring witness.

13 8. By entering into this stipulation, the parties hereby preserve and do not waive any
14 other objections that they may have to the admissibility of a particular document.

15 9. Except as provided herein, this stipulation does not otherwise affect the schedule
16 for the case.

17 Dated: March 28, 2013 LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP

18
19 By: /s/ Kelly M. Dermody
20 KELLY M. DERMODY
21 Attorneys for individual and representative Plaintiffs
22 Siddharth Hariharan, Brandon Marshall, Michael Devine,
23 Mark Fichtner, and Daniel Stover

24 Dated: March 28, 2013 JOSEPH SAVERI LAW FIRM

25 By: /s/ Joseph Saveri
26 JOSEPH SAVERI
27 Attorneys for individual and representative Plaintiffs
28 Siddharth Hariharan, Brandon Marshall, Michael Devine,
Mark Fichtner, and Daniel Stover

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: March 28, 2013 O'MELVENY & MYERS LLP

By: /s/ Michael F. Tubach
MICHAEL F. TUBACH
Attorneys for Defendant
APPLE INC.

Dated: March 28, 2013 KEKER & VAN NEST LLP

By: /s/ Daniel Purcell
DANIEL PURCELL
Attorneys for Defendant
LUCASFILM LTD.

Dated: March 28, 2013 JONES DAY

By: /s/ David C. Kiernan
DAVID C. KIERNAN
Attorneys for Defendant
ADOBE SYSTEMS INC.

Dated: March 28, 2013 MAYER BROWN LLP

By: /s/ Lee H. Rubin
LEE H. RUBIN
Attorneys for Defendant
GOOGLE INC.

Dated: March 28, 2013 BINGHAM McCUTCHEN LLP

By: /s/ Frank Hinman
Frank Hinman
Attorneys for Defendant
INTEL CORPORATION

Dated: March 28, 2013 JONES DAY

By: /s/ Robert A. Mittelstaedt
ROBERT A. MITTELSTAEDT
Attorneys for Defendant
INTUIT INC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: May 14, 2013



HON. LUCY H. KOH
UNITED STATES DISTRICT JUDGE

SFI-819904v5