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13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA  
 15 SAN JOSE DIVISION

16 SOFTVAULT SYSTEMS, INC.,  
 17 Plaintiff,  
 18 vs.  
 19 INTERNATIONAL BUSINESS MACHINES  
 20 CORPORATION,  
 21 Defendant.

22 CASE NO. 5:12-cv-05546-LHK

23 **STIPULATED MOTION TO MODIFY  
 24 SCHEDULE, PROPOSED ORDER, AND  
 25 DECLARATION OF COUNSEL**

26 **STIPULATED MOTION**

27 On February 4, 2013, the Court entered its “Minute Order and Case Management Order”  
 28 (“Scheduling Order,” ECF No. 23) in the above-captioned action (“Action”) and in two  
 companion actions: *SoftVault Systems, Inc. v. Research in Motion*, Case No. 12-CV-5544 LHK  
 (“RIM Action”) and *SoftVault Systems, Inc. v. Novell, Inc.*, Case No. 12-CV-5541 LHK (“Novell  
 Action”). The RIM Action has since settled and been dismissed.

On March 22, 2013 the Court granted a stipulated motion to modify the scheduling order  
 in the companion Novell Action. This Action and the Novell Action involve the same Patents-in-  
 Suit. In an effort to foster efficiency, International Business Machines Corporation (“IBM”) and  
 SoftVault Systems Inc. (“SoftVault”) requested that the Court continue certain deadlines imposed

1 by the Scheduling Order to match the modified scheduling order in the companion Novell Action.  
 2 On April 1, 2013 the Court granted that request (“Modified Scheduling Order,” ECF No. 26).

3 Novell has recently requested certain changes to the schedule in the Novell Action in light  
 4 of having retained new counsel. In a continuing effort to foster efficiency, IBM and SoftVault  
 5 have agreed to request that the Court continue certain deadlines imposed by the most recent  
 6 Modified Scheduling Order in this Action to match the modified schedule proposed in the  
 7 companion Novell Action.

8 Specifically, IBM and SoftVault move the Court to amend the Modified Scheduling Order  
 9 as set forth in the following table:

<b>Event</b>	<b>Modified Scheduling Order</b>	<b>Proposed Schedule</b>
Last day to amend pleadings	May 30, 2013	No change
Invalidity contentions and accompanying document production (Patent L.R. 3-3, 3-4)	May 30, 2013	June 21, 2013
Exchange of proposed terms for construction (Patent L.R. 4-1)	June 6, 2013	July 1, 2013
Exchange of preliminary claim constructions and extrinsic evidence (Patent L.R. 4-2)	June 20, 2013	July 8, 2013
Joint claim construction and prehearing statement (Patent L.R. 4-3)	July 3, 2013	July 15, 2013
Completion of claim construction discovery (Patent L.R. 4-4)	July 18, 2013	No change
Opening claim construction brief (Patent L.R. 4-5(a))	July 25, 2013	No change
Opposing claim construction brief (Patent L.R. 4-5(b))	August 15, 2013	No change
Reply claim construction brief (Patent L.R. 4-5(c))	August 23, 2013	No change
Technology tutorial	September 12, 2013	No change
Claim construction hearing (Patent L.R. 4-6)	September 19, 2013	No change

1 The proposed modifications do not affect the technology tutorial and claim construction hearing  
2 dates or reduce the time available to the Court to review materials between the conclusion of claim  
3 construction briefing and the claim construction hearing.

4 Accordingly, IBM and SoftVault, by and through their respective undersigned counsel,  
5 respectfully request that the Court enter an order modifying the schedule as set forth above.  
6 Undersigned counsel for IBM attests that he has obtained the concurrence of below identified  
7 counsel for SoftVault in the filing of this document.

8  
9 DATED: May 29, 2013

QUINN EMANUEL URQUHART &  
SULLIVAN, LLP

11 By /s/ Michael D. Powell

12 Michael D. Powell, Esq.

13 Attorneys for Defendant International Business  
14 Machines Corporation

15 DATED: May 29, 2013

FRIEDMAN, SUDER & COOKE

17 By /s/ Corby R. Vowell

18 Corby R. Vowell, Esq.

19 Attorneys for Plaintiff SoftVault Systems, Inc.

20 **[Proposed] ORDER**

21 PURSUANT TO STIPULATION OF THE PARTIES, IT IS SO ORDERED.

22  
23 DATED: May 30 2013

24  
25 By Lucy H. Koh

26 Lucy H. Koh

27 UNITED STATES DISTRICT JUDGE  
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**Local Rule 6-2(a) Declaration**

Pursuant to Local Rule 6-2(a), IBM’s undersigned counsel declares, under penalties of perjury under the laws of the United States of America (and using terms as defined in the foregoing “Stipulated Motion to Modify Schedule”), that:

1. The reasons for seeking the continuances requested by the Stipulated Motion to Modify Schedule are twofold. First, Novell has recently requested some additional time in light of having retained new counsel. Because both the Action and the Novell Action involve the same Patents-In-Suit, judicial economy would be served by matching the schedules in the companion cases. The parties expect the Court to grant a motion to modify the schedule in the Novell Action consistent with the Proposed Schedule described in the Stipulated Motion to Modify Schedule. Approving the modifications requested would keep the two schedules in alignment. Second, approving the modifications requested in the Stipulated Motion to Modify Schedule will allow the parties to continue to discuss settlement options and may increase the likelihood the dispute may be resolved before substantive engagement of the issues by the Court.
2. IBM and SoftVault twice stipulated to extend the time for IBM to reply or otherwise respond to SoftVault’s complaint: on November 26, 2012 and December 17, 2013. And on May 28, 2013, IBM and SoftVault stipulated to modify certain deadlines contained in the Court’s February 24, 2013 Scheduling Order in order to align dates in this Action with the then-applicable schedule in the companion Novell Action.
3. The modifications requested by the Stipulated Motion to Modify Schedule will not affect the schedule for the Action other than as set forth in the Stipulated Motion to Modify Schedule. Specifically, although it would continue various deadlines falling before opposition claim construction briefs under Patent Local Rules 4-5(b) and 4-5(c), those continuances would not affect subsequent events.

*/s/ Michael D. Powell*  
Michael D. Powell