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9 Attorneys for Defendants  
10 Pixar Animation Studios, Disney Enterprises, Inc., and  
11 Chronicle Books, LLC

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

15 STANLEY G. MILLER,  
16 Plaintiff,  
17 v.  
18 PIXAR ANIMATION STUDIOS, INC., et  
19 al.,  
20 Defendants.

Case No. C-02-4748 JW

**STIPULATED REQUEST TO MODIFY  
SCHEDULING ORDER AND  
~~PROPOSED~~ ORDER**

21 Plaintiff Stanley Miller (“Miller”) and Defendants Pixar Animation Studios, Disney  
22 Enterprises, Inc., and Chronicle Books, LLC (“Defendants”), stipulate and jointly request that the  
23 Court modify the Scheduling Order dated November 28, 2005 (the “November 28, 2005  
24 Scheduling Order”) to set the remaining case management dates. The parties make this request  
25 pursuant to Civil L.R. 6-2 and 7-11, and a declaration supporting this motion is submitted  
26 herewith. The parties request this modification for the following reasons:

- 27 • Following entry of the November 28, 2005 Scheduling Order, the parties have worked  
28 diligently to complete damages discovery and have made further progress. They have not,  
however, completed that discovery process.
- As set forth in their stipulation of November 23, 2005, the parties have met and conferred and  
agreed to further dates that they believe will enable them to efficiently complete damages

1 discovery.

2 (Declaration of David R. Eberhart In Support of Stipulated Request ¶¶ 2-3.) Accordingly, the  
3 parties stipulate and request that the Court modify the following paragraphs of the November 28,  
4 2005 Scheduling Order as follows:

5 B. Disclosure of Damages Expert Witnesses

6 5. Any party objecting to the qualifications or proposed testimony of a damages  
7 expert must file, serve and notice a motion to exclude the damages expert or any portion of the  
8 damages expert's testimony in writing in accordance with Civil Local Rule 7-2, for hearing no  
9 later than March 27, 2006 at 9:00 a.m.

10 C. Rebuttal Damages Expert Witnesses

11 6. If the testimony of the damages expert is intended solely to contradict or rebut  
12 opinion testimony on the same subject matter identified by another party, the party proffering a  
13 rebuttal damages expert shall make the disclosures required by Fed.R.Civ.P. 26(a)(2)(B), no later  
14 than January 27, 2006.

15 E. Close of Discovery

16 8. Pursuant to Civil L.R. 26-2, all discovery, including supplemental disclosures and  
17 depositions of expert witnesses, must be completed by February 17, 2006.

18 F. Last Date for Hearing Dispositive Motions

19 9. The last day for hearing dispositive motions is March 20, 2006 at 9:00 a.m. Any  
20 motions must be noticed in accordance with the Local Rules of this Court.

21 None of the dates set in this order may be changed without an order of the Court made  
22 after a motion is duly filed and made pursuant to the local rules of this Court.

23 The parties acknowledge that the proposed deadlines for the hearing of dispositive  
24 motions and of motions to exclude damages expert testimony would cause those hearings to take  
25 place after the March 13, 2006 preliminary pretrial and trial setting conference. Because the  
26 parties do not know whether any such motions will be filed, they are not requesting that the Court  
27 continue at this time the dates for the filing of the preliminary pretrial and trial setting conference  
28 statement or for the preliminary pretrial and trial setting conference. If any such motions are

1 filed, the parties will meet and confer in an effort to submit a stipulated request to continue those  
2 events to new agreed dates that fall after the hearings on any pending motions.

3 The parties make this request for good cause and not for the purpose of delay. The Court  
4 has previously modified the schedule in this case pursuant to the parties' stipulated request on  
5 June 20, 2003, July 31, 2003, October 23, 2003, January 15, 2004, October 13, 2004, November  
6 15, 2004, and November 28, 2005.

7  
8

9 Dated: December 16, 2005

10 JOHN R. HEISNER  
11 DONALD G. REZ  
12 BARTON L. JACKA  
13 SULLIVAN, HILL, LEWIN, REZ &  
14 ENGEL

15 By  /s/ Barton L. Jacka  
16 Barton L. Jacka  
17 Attorneys for Plaintiff Stanley G. Miller

18 GEORGE A. RILEY  
19 DAVID R. EBERHART  
20 O'MELVENY & MYERS LLP

21 By  /s/ David R. Eberhart  
22 David R. Eberhart  
23 Attorneys for Defendants Pixar Animation  
24 Studios, Disney Enterprises, Inc., and  
25 Chronicle Books, LLC

26 Filer's Attestation: Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest  
27 under penalty of perjury that concurrence in the filing of the document has been obtained from  
28 Barton L. Jacka

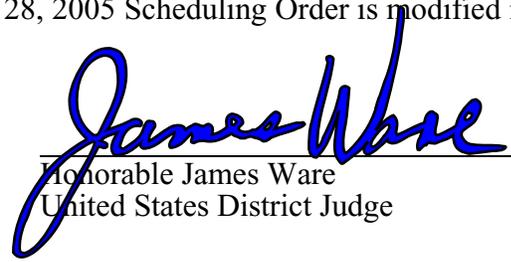
/s/ David R. Eberhart  
David R. Eberhart  
O'MELVENY & MYERS LLP  
*Attorneys for Defendants*  
Pixar Animation Studios, Disney  
Enterprises, Inc., and Chronicle  
Books, LLC.

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~~[PROPOSED]~~ ORDER

Pursuant to the stipulation of the parties and for good cause shown, IT IS  
HEREBY ORDERED that the November 28, 2005 Scheduling Order is modified in accordance  
with the schedule set forth above.

Dated: 12/20/05

  
Honorable James Ware  
United States District Judge

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