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6 Attorneys for Defendant
GREGORY L. REYES
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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 IN RE BROCADE COMMUNICATIONS
SYSTEMS, INC., DERIVATIVE
12 LITIGATION

CASE NO.: C 05-02233 CRB

**STIPULATION AND ~~[PROPOSED]~~
ORDER EXTENDING TIME FOR
GREGORY L. REYES TO FILE THIRD-
PARTY COMPLAINT WITHOUT
OBTAINING LEAVE BY MOTION**

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17 This Document Relates To ALL ACTIONS
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19 **STIPULATION**

20 WHEREAS, on January 23, 2009, defendant Gregory L. Reyes ("Reyes") filed and served
21 his original answer in this action;

22 WHEREAS, pursuant to Rule 14(a)(1) of the Federal Rules of Civil Procedure, Reyes may,
23 without obtaining leave of court by motion, file a third-party complaint against a non-party within
24 10 days after serving his original answer, or by February 2, 2009;

25 WHEREAS the parties have been working towards an agreement to resolve this action
26 through binding arbitration in lieu of trial in the District Court and require additional time to
27 finalize the terms of such agreement;
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1 WHEREAS Reyes seeks to preserve his right to file a third-party complaint without
2 obtaining leave by motion in the event the parties proceed to trial in the District Court, and avoid
3 unnecessary filing in the District Court in the event the parties proceed in arbitration;

4 WHEREAS Reyes has requested an extension of time in which to file a third-party
5 complaint without obtaining leave of court by motion and Brocade has agreed to such an extension
6 of time;

7 IT IS HEREBY STIPULATED by and between the undersigned as follows:

8 Defendant Gregory L. Reyes shall have until February 16, 2009 to file a third-party
9 complaint without obtaining leave of court by motion.

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DATED: February 2, 2009

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
By: /s/Richard Marmaro
Richard Marmaro
Attorneys for Defendant Gregory L. Reyes

DATED: February 2, 2009

DEWEY & LEBOEUF LLP
By: /s/Peter E. Root
Peter E. Root
Attorneys for Plaintiff Brocade Communications
Systems, Inc

DATED: February 2, 2009

WILMER CUTLER PICKERING HALE & DORR
By: /s/Jonathan A. Shapiro
Jonathan A. Shapiro
Attorneys for Defendant Seth D. Neiman

DATED: February 21, 2009

K&L GATES LLP
By: /s/Jeffrey L. Bornstein
Jeffrey L Bornstein
Attorneys for Defendant Neal Dempsey

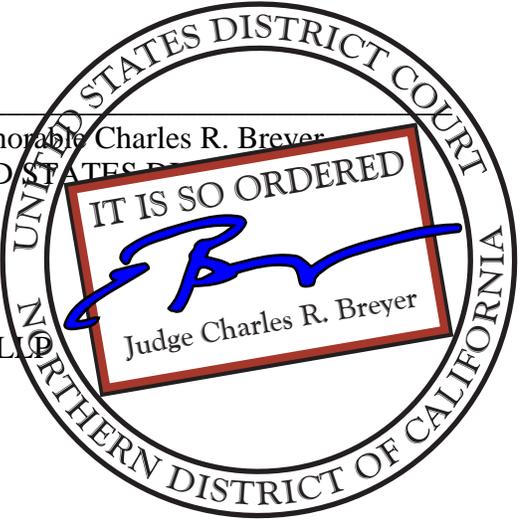
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[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: Feb. 03, 2009

The Honorable Charles R. Breyer
UNITED STATES DISTRICT COURT



Respectfully submitted,

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
Richard Marmaro
Jack P. DiCanio

By: /s/ Richard Marmaro
RICHARD MARMARO
Attorneys for Defendant
GREGORY L. REYES

1 I, Richard Marmaro, am the ECF User whose identification and password are being used to
2 file this Stipulation and [Proposed] Order Extending Time for Gregory L. Reyes to File Third-Party
3 Complaint Without Obtaining Leave By Motion. In compliance with General Order 45.X.B., I
4 hereby attest that the signatories have concurred in this filing.

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6 DATED: February 2, 2008

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

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/s/ Richard Marmaro
Richard Marmaro

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