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8 Attorneys for Defendants MARCONI PLC,  
 MARCONI COMMUNICATIONS and  
 9 TELENT LTD.

10  
 11 UNITED STATES DISTRICT COURT  
 12 NORTHERN DISTRICT OF CALIFORNIA  
 13 SAN FRANCISCO DIVISION

14 JOHN OSANITSCH,  
 15  
 16 Plaintiff,  
 17 vs.

Case No. 3:05-cv-03988 (CRB)

**STIPULATION FOR DISMISSAL WITH  
 PREJUDICE PURSUANT TO FED. R.  
 CIV. PRO. 41(a)**

18 MARCONI PLC; MARCONI ACQUISITION  
 SUB, INC., MARCONI  
 19 COMMUNICATIONS; TELEPHON AB L.M.  
 ERICSSON; and TELENT LTD.,  
 20  
 21 Defendants.

1           WHEREAS, on or about December 30, 2004, Plaintiff John Osanitsch (“Osanitsch”)  
2 commenced an action in the Superior Court of the State of California in and for Sonoma County,  
3 entitled *Osanitsch v. Marconi*, Case No. SCV 236042 (the “Complaint”);

4           WHEREAS, on or about October 3, 2005, Defendant Marconi plc (“Marconi”) filed a Notice  
5 of Removal pursuant to 28 U.S.C. § 1441(b) removing Plaintiff’s action to the United States District  
6 Court for the Northern District of California;

7           WHEREAS, on or about October 14, 2005, this action was assigned to Honorable Charles R.  
8 Breyer, Case No. 3:05-cv-03988-CRB, for all further proceedings;

9           WHEREAS, on December 17, 2008, Osanitsch filed his First Amended Complaint;

10           WHEREAS, on January 29, 2009, Marconi filed a motion to dismiss Osanitsch’s First  
11 Amended Complaint;

12           WHEREAS, on March 20, 2009, after evaluating Marconi’s motion to dismiss and holding  
13 oral argument, Judge Breyer partially granted the motion to dismiss and dismissed four of the five  
14 claims against Marconi; specifically, Judge Breyer held that Osanitsch’s claims for fraud and deceit,  
15 negligent misrepresentation, breach of the implied covenant of good faith and wrongful discharge  
16 were barred by the respective statute of limitations;

17           WHEREAS, on September 18, 2009, Defendants Marconi, Marconi Communications and  
18 Telent Ltd. (collectively “Defendants”) moved for summary judgment on Osanitsch’s remaining  
19 claim;

20           WHEREAS, on December 21, 2009, Judge Breyer granted summary judgment in favor of  
21 Defendants and against Osanitsch dismissing his remaining breach of contract cause of action;

22           WHEREAS, on December 22, 2009, Judge Breyer entered judgment in favor of Defendants  
23 and against Osanitsch;

24           WHEREAS, on January 5, 2010, Defendants filed a motion for attorneys’ fees pursuant to  
25 the terms of the Employee Separation Agreement and General Release executed by the parties;

26           WHEREAS, on January 19, 2010, Osanitsch appealed the Court’s: (1) Order Partially  
27 Granting Marconi’s Motion to Dismiss Osanitsch’s First Amended Complaint and (2) Order  
28 Granting Defendants’ Motion for Summary Judgment;

1 WHEREAS Plaintiff and Defendants have reached an agreement that fully and finally  
2 resolves the Complaint and, therefore, desire that the Complaint be dismissed with prejudice.

3 IN CONSIDERATION OF THE FOREGOING, the undersigned parties, through their  
4 counsel of record, hereby STIPULATE and AGREE as follows:

5 **IT IS HEREBY STIPULATED** by and between Plaintiff and Defendants that this entire  
6 action shall be dismissed with prejudice pursuant to Rule 41(a) of the Federal Rules of Civil  
7 Procedure, with each party to bear its own costs and attorneys' fees.

8 **IT IS SO STIPULATED.**

9  
10 **THE LAW OFFICES OF  
JAMES J. SELTZER**

11 Dated: June 10, 2010

12 By: /s/ James J. Seltzer  
James J. Seltzer

13 Attorneys for Plaintiff JOHN OSANITSCH  
14

15  
16 **K&L GATES LLP**


17  
18 Dated: June 10, 2010

19 By: /s/ Jas S. Dhillon  
Jas S. Dhillon

20 Attorneys for Defendants MARCONI PLC,  
21 MARCONI COMMUNICATIONS AND  
22 TELENT LTD.

23 PURSUANT TO STIPULATION IT IS SO ORDERED.  
24

25 Dated: June 22, 2010

26 The Honorable Charles R. Breyer  
27   
28 Judge Charles R. Breyer

