

1 MARK D. FOWLER (Bar No. 124235)
mark.fowler@dlapiper.com
2 CLAYTON THOMPSON (Pro Hac Vice)
clayton.thompson@dlapiper.com
3 DAVID ALBERTI (Bar. No. 220625)
david.alberti@dlapiper.com
4 CHRISTINE K. CORBETT (Bar No. 209128)
christine.corbett@dlapiper.com
5 YAKOV M. ZOLOTOREV (Bar No. 224260)
yakov.zolotorev@dlapiper.com
6 CARRIE L. WILLIAMSON (Bar No. 230873)
carrie.williamson@dlapiper.com

7
8 DLA PIPER LLP (US)
2000 University Avenue
East Palo Alto, CA 94303-2215
9 Tel: 650.833.2000
Fax: 650.833.2001

10 Attorneys for Plaintiff and Counterdefendant
11 Sun Microsystems, Inc.

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

16 SUN MICROSYSTEMS, INC.
17 Plaintiff-Counterdefendant,
18 v.
19 NETWORK APPLIANCE, INC.
20 Defendant-Counterclaimant.

Case Nos. 3:07-CV-05488-EDL

**STIPULATION AND ~~[PROPOSED]~~ ORDER
RE WITHDRAWAL OF PENDING
MOTIONS**

21
22 In connection with the parties' July 30, 2010, request for an extension of the current stay
23 in this matter, Sun Microsystems, Inc. and NetApp, Inc. hereby stipulate to Sun's withdrawal
24 without prejudice of Sun's pending motion for summary judgment (Dkt. # 257) and motion to
25 seal (Dkt. # 256), and further stipulate that said motions may be re-noticed for decision by the
26 Court following the end of the stay without the need for further briefing or a hearing on the
27 motions. It is the intent of the parties and the Court that this stipulation be interpreted in such a
28 way as to preserve the status quo vis-a-vis the parties and this litigation should the case resume

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following the expiration of this stay.

Dated: August 4, 2010

DLA PIPER LLP (US)

By: /s/ Mark D. Fowler

MARK D. FOWLER
CLAYTON THOMPSON
DAVID ALBERTI
CHRISTINE K. CORBETT
YAKOV M. ZOLOTOREV
CARRIE L. WILLIAMSON

Attorneys for
Sun Microsystems, Inc.

Dated: August 4, 2010

WEIL, GOTSHAL & MANGES LLP

By: /s/ Edward R. Reines

MATTHEW D. POWERS
EDWARD R. REINES
JEFFREY G. HOMRIG
JILL J. HO

Attorneys for
NetApp, Inc.

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~~PROPOSED~~ ORDER

Sun's pending motion for summary judgment (Dkt. # 257) and motion to seal (Dkt. # 256) are hereby deemed withdrawn without prejudice. Sun may re-notice the motions for decision by the Court following the conclusion of the stay without the need for further briefing or a hearing on the motions.

IT IS SO ORDERED.

Dated: August 5, 2010

Elizabeth D. Laporte
UNITED STATES MAGISTRATE JUDGE
ELIZABETH D. LAPORTE