

1 MATTHEW D. POWERS (Bar No. 104795)
matthew.powers@weil.com
 2 EDWARD R. REINES (Bar No. 135960)
edward.reines@weil.com
 3 JEFFREY G. HOMRIG (Bar No. 215890)
jeffrey.homrig@weil.com
 4 JILL J. HO (Bar No. 236349)
jill.ho@weil.com
 5 WEIL, GOTSHAL & MANGES LLP
 201 Redwood Shores Parkway
 6 Redwood Shores, CA 94065
 Telephone: (650) 802-3000
 7 Facsimile: (650) 802-3100

8 Attorneys for Plaintiff-Counterclaim Defendant
 9 NETAPP, INC.

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

13 NETWORK APPLIANCE, INC.

14 Plaintiff-Counterclaim Defendant,

15 v.

16 SUN MICROSYSTEMS, INC.

17 Defendant-Counterclaim Plaintiff.
 18

Case No. 3:07-CV-06053-EDL

**STIPULATION AND [~~PROPOSED~~] ORDER
 EXTENDING DISCOVERY DEADLINE FOR
 PATENTS NOT SELECTED FOR CLAIM
 CONSTRUCTION**

19 As reflected in the parties' June 16, 2008 Joint Report on Claim Construction (Docket No.
 20 79), the Court directed the parties to select three asserted NetApp patents and five asserted Sun
 21 patents for claim construction at this stage of the case. In light of this, the parties agree that the
 22 fact discovery deadline (and all dates triggered therefrom) for non-selected patents, which are not
 23 proceeding through claim construction at this stage, should be vacated. Accordingly, the parties
 24 hereby stipulate to and jointly request that the Court vacate the January 16, 2009 deadline for fact
 25 discovery with respect to the following patents-in-suit: U.S. Patent Nos. 7,174,352, 7,162,486,
 26 7,133,964, 5,403,639, 5,410,667, 5,761,662, 5,941,954, 6,356,984, 6,591,303, 6,983,343, and
 27 6,581,185.
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Dated: September 4, 2008

DLA PIPER US LLP

By: /s/ Christine K. Corbett

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

Attorneys for
Sun Microsystems, Inc.

Dated: September 4, 2008

WEIL, GOTSHAL & MANGES LLP

By: /s/ Jill J. Ho

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

Attorneys for
NetApp, Inc.

PROPOSED ORDER

Having considered the parties' stipulation, the joint request for relief is **GRANTED**. The January 16, 2009 deadline for fact discovery (and all dates triggered therefrom) is hereby vacated with respect to the following patents-in-suit: U.S. Patent Nos. 7,174,352, 7,162,486, 7,133,964, 5,403,639, 5,410,667, 5,761,662, 5,941,954, 6,356,984, 6,591,303, 6,983,343, and 6,581,185.

IT IS SO ORDERED.

Dated: September 5, 2008

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
IT IS SO ORDERED
Elizabeth D. Laporte
Judge Elizabeth D. Laporte
ELIZABETH D. LAPORTE, JUDGE