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 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 DEADLINE TO FILE MOTIONS
 TO COMPEL**

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 20 In its February 12, 2008 Case Management Scheduling Order, the Court specified that
 21 motions to compel non-expert discovery must be filed within the time limits contained in Civil
 22 Local Rule 26-2, which provides that motions must be filed within 7 court days of the close of
 23 discovery. Order (Docket Entry 20), at ¶ 2a; Civil Local Rule 26-2. In its November 18, 2008
 24 Order, the Court set April 24, 2009 as the close of fact discovery concerning certain of the
 25 patents-in-suit.¹ As a result, the deadline for filing motions to compel concerning fact discovery
 26 related to these patents is May 5, 2009.

27 The parties (between themselves and with third-parties) have been, and continue to be,

28 ¹ The parties have agreed that a certain number of depositions that were noticed prior to the close of discovery, but that could not be scheduled prior to that deadline, may proceed prior to June 19, 2009.

1 engaged in what appear to be fruitful negotiations concerning their respective discovery
2 responses. However, the volume of issues to work through is such that the meet-and-confer
3 process is not yet complete. In light of this, the parties are concerned that, if this filing deadline is
4 not continued, a multitude of discovery issues will be raised with the Court unnecessarily.
5 Because the parties believe that continued discussions are likely to resolve many or all of the
6 currently pending disputes, they hereby stipulate through their respective counsel of record,
7 subject to the Court's approval, that the deadline for filing motions to compel discovery that is
8 subject to the April 24, 2009 fact discovery cutoff be continued until May 22, 2009.
9

10 Dated: May 4, 2009

WEIL, GOTSHAL & MANGES LLP

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12 By: /s/ Jeffrey G. Homrig

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15 Attorneys for Plaintiff, NETAPP, INC.

16 Dated: May 4, 2009

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23 **IT IS SO ORDERED.**

24 Dated: May 5, 2009

