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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

SUN MICROSYSTEMS, INC.,  
Plaintiff/Counterdefendant,  
v.  
NETWORK APPLIANCE, INC.,  
Defendant/Counterplaintiff.

CASE NO. 3:08-CV-01641 EDL  
**STIPULATED ADDENDUM TO  
PROTECTIVE ORDER**

Defendant Network Appliance, Inc. (“Defendant”) and Plaintiff Sun Microsystems, Inc. (“Plaintiff”) hereby stipulate to the following Addendum to the Protective Order (“Protective Order”) in this action for the protection of “Highly Confidential” (as defined in Paragraph 9 of the Protective Order) documents of non-party Symantec, whether produced or disclosed by Symantec or by any party or third party, which may be revealed in connection with this action (“Symantec Confidential Information”).

WHEREAS, Symantec is not a party to this litigation; and

WHEREAS Symantec wishes to protect all Symantec Confidential Information (including Veritas Confidential Information) which may be disclosed in this action by Symantec or by any party or third party;

The parties and Symantec agree and stipulate to the following Addendum to the Protective Order (“Addendum”):

1. Notwithstanding paragraph 10 of the Protective Order permitting access to “Highly Confidential” documents to designated in-house counsel, materials designated “Attorneys’ Eyes Only-Non Party Symantec” may only be disclosed to: (1) the court, jury, and court personnel; (2) outside counsel of record for the parties to this action, which category is limited to Weil, Gotshal and Manges LLP on behalf of Defendant and DLA Piper LLP US on behalf of Plaintiff, including the partners, associates and employees of these firms; (3) non-party

1 consultants and experts (as defined in paragraph 10(d) of the Protective Order) actually retained  
2 or employed by outside counsel of record to advise or to assist counsel in the preparation and/or  
3 trial of this action to the extent reasonably necessary to advise or to assist counsel in the  
4 preparation and/or trial of this action; and (4) outside vendors that provide photocopying,  
5 document processing, translation or graphics services to outside counsel to assist such counsel in  
6 the preparation and trial of this action.

7           2.       In the event that a party plans to disclose Symantec Confidential Information to an  
8 expert (as defined by Paragraph 10(d) of the Protective Order), the party proposing such  
9 disclosure shall, at least seven (7) business days prior to such disclosure, provide notice to  
10 Symantec. If Symantec objects to the disclosure of Symantec Confidential Information to the  
11 expert, Symantec will serve a written objection within five (5) business days of receipt of the  
12 information set forth above, which objection shall state the basis for Symantec's objection.  
13 Symantec and the party proposing disclosure shall confer in an attempt to resolve the objection.  
14 If Symantec and the party proposing disclosure are not able to resolve the objection, Symantec  
15 may file a motion in support of its objection within five (5) business days after such conference.  
16 If no motion is filed, Symantec shall be deemed to have withdrawn its objection. In any motion  
17 pursuant to this paragraph, Symantec shall bear the burden of proof of establishing that the expert  
18 should not have access to the Symantec Confidential Information. No disclosure of Symantec  
19 Confidential Information shall be made to the proposed expert until Symantec and the party  
20 proposing disclosure resolve the matter, the objection is withdrawn, or the Court permits such  
21 disclosure.

22           3.       Notwithstanding any contrary provision of the Protective Order, in the event that a  
23 party wishes to elicit testimony or use or disclose documents or transcripts at trial, hearing or any  
24 other proceeding which contain or refer to Symantec Confidential Information, the party shall  
25 request (i) that the Symantec Confidential Information be filed under seal, (ii) that the portions of  
26 the record of any proceeding containing Symantec Confidential Information be sealed; (iii) that  
27 persons other than outside counsel of record in this action (expressly excluding an in-house

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counsel of the parties), outside consultants and experts (as defined by Paragraph 10(d) of the Protective Order), court personnel, jurors, and court reporters be excluded from the proceedings during the disclosure of Symantec Confidential Information.

4. The party planning to use or disclose Symantec Confidential Information during trial, hearing or other proceeding shall provide written notice to Symantec of such intent at least seven (7) business days prior to the proceeding. Such notice shall be served on counsel for Symantec, at David Majors, Esq., Sr. Corporate Counsel, Intellectual Property Legal Department Symantec Corporation, 350 Ellis Street, Mountain View, CA 94043.

5. Notwithstanding any contrary provisions of the Protective Order, Symantec Confidential Information shall be used solely in preparation for the trial and/or appeal of the above-identified action. Symantec Confidential Information shall not be used or disclosed at any other time or for any other purpose whatsoever.

6. Subject to the foregoing additional restrictions and limitations, Symantec Confidential Information shall be subject to the remaining terms of the original Protective Order in this case.

IT IS SO STIPULATED.

Dated: October 7, 2009

Dated: October 7, 2009

By /s/ Azra M. Hadzimehmedovic

By /s/ Carrie L. Williamson

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Counsel for Defendant

Counsel for Plaintiff

IT IS SO ORDERED.

Dated: October \_\_13\_\_, 2009

*Elijah D. Laporte*

ELIZABETH D. LAPORTE  
United States Magistrate Judge