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United States District Court  
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

Life Point System, Inc., et al.,

NO. C 93-20352 JW  
NO. C 09-0602 CRB

\_\_\_\_\_ /

Northpeak Wireless, LLC,

**ORDER DENYING JOINT MOTION TO  
RELATE**

Plaintiffs,

v.

Cargill, Inc., et al.,

\_\_\_\_\_ /

3Com Corp.,

Defendants.

\_\_\_\_\_ /

Presently before the Court is the Northpeak Defendants’ Joint Motion to Consider Whether Cases Should be Related.<sup>1</sup> The Northpeak Defendants<sup>2</sup> seek to have Northpeak Wireless, LLC v. 3Com Corp., et al., No. 09-00602 CRB, related to the above entitled action filed in 1993. (See Docket Item No. 1.)

In the 1993 action, Plaintiffs alleged that Defendants were infringing U.S. Patent No. 4,977,577 (“the ‘577 Patent”). On June 5, 2000, in light of a settlement agreement, the Court entered an Order of Dismissal dismissing all claims with prejudice. (See Docket Item No. 521.)

<sup>1</sup> (Northpeak Defendants’ Joint Administrative Motion to Consider Whether the Cases Should be Related, hereafter, “Motion,” Docket Item No. 523.)

<sup>2</sup> The “Northpeak Defendants” refers to twenty-six Defendants in Northpeak Wireless, LLC v. 3Com Corp., No 09-0602 CRB.

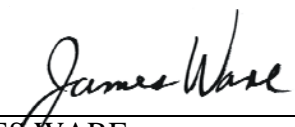
1 The Northpeak action was filed on October 1, 2008. (Motion at 2.) On February 19, 2009,  
2 the Northpeak action was transferred to the United States District Court for the Northern District of  
3 California. (Motion at 3.) On March 10, 2009, the Northpeak Defendants moved to relate  
4 Northpeak with the 1993 action on the grounds that both actions concern infringement allegations  
5 under the '577 Patent, both actions concern similar invalidity defenses, and one of the Plaintiffs in  
6 the 1993 action is a critical witness in the Northpeak action. (Motion at 1-2.)

7 Pursuant to Civ. L.R. 3-12(a), cases are related where (1) the actions concern substantially  
8 the same parties, property, transaction or event, and (2) it appears likely that there will be an unduly  
9 burdensome duplication of labor and expense or conflicting results if the cases are conducted before  
10 different judges.

11 Here, the Northpeak action and this action partially overlap in that a Plaintiff in this action is  
12 purportedly a critical witness in the Northpeak action and the '577 Patent is one of the patents at-  
13 issue in the Northpeak action. However, the Court finds that, under the second prong of Local Rule  
14 3-12(a), it is not likely that there will be an unduly burdensome duplication of labor or conflicting  
15 results by conducting the two cases before different judges. The two actions have almost a 13 year  
16 gap between them. Thus, the Court finds that the risk of duplicative litigation and inconsistent  
17 results is minimal.

18 Accordingly, the Court DENIES the Northpeak Defendants' Joint Motion to Consider  
19 Whether Cases are Related.

20  
21 Dated: March 13, 2009

  
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JAMES WARE  
United States District Judge

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1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Avin P. Sharma asharma@vbllaw.com  
3 Melissa A. Finocchio mfinocchio@orrick.com  
4 Richard Craig Vasquez rvasquez@vbllaw.com  
5 Robert J. Benson RJBenson@hhlaw.com

6 **Dated: March 13, 2009**

**Richard W. Wieking, Clerk**

7 **By:           /s/ JW Chambers**  
8 **Elizabeth Garcia**  
9 **Courtroom Deputy**

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