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

13 SUN MICROSYSTEMS INCORPORATED,

14 Plaintiff/Counter-defendant,

15 v.

16 IMPLICIT NETWORKS, INC.

17 Defendant/Counter-claimant.

Case No. CV 09-0201 SI

**STIPULATED MOTION TO  
 CONSOLIDATE CASES PURSUANT TO  
 FED. R. CIV. P. 42(A) AND [PROPOSED]  
 ORDER**

18  
 19 IMPLICIT NETWORKS, INC.,

20 Plaintiff,

21 v.

22  
 23 INTERNATIONAL BUSINESS MACHINES  
 CORPORATION, ORACLE CORPORATION,  
 24 SAP AMERICA, INC., AND ADOBE  
 SYSTEMS INCORPORATED,

25 Defendants.

Case No. CV 09-1342 BZ

1 IT IS HEREBY STIPULATED by and between all parties to the two above-captioned  
2 actions, by their counsel of record, as follows:

3 WHEREAS the action entitled *Sun Microsystems, Incorporated v. Implicit Networks,*  
4 *Inc.*, Case No. CV 09-0201 SI (“*Sun v. Implicit*”) is pending in this Court, and whereas the  
5 action entitled *Implicit Networks, Inc. v. International Business Machines Corporation,*  
6 *Oracle Corporation, SAP America, Inc. and Adobe Systems Incorporated*, Case No. C08-  
7 01080, was transferred from the Western District of Washington pursuant to 28 U.S.C. §  
8 1404(a) by order of that court dated March 19, 2009, for purposes of consolidation with *Sun*  
9 *v. Implicit* (and has been assigned Case Number C 091342 BZ by the Northern District of  
10 California); and  
11

12 WHEREAS all parties agree that these cases are related pursuant to Local Rule 3-12,  
13 such that there would be an unduly burdensome duplication of labor and expense or  
14 conflicting results if the cases are conducted before different Judges, and  
15

16 WHEREAS all parties to the above-captioned actions agree that these two actions  
17 should be consolidated pursuant to Fed. R. Civ. Proc. 42(a), because these two actions are,  
18 respectively, a patent declaratory relief action and a patent damages action, both of which are  
19 based upon the same two U.S. Patents and are likely to involve similar claims, issues and  
20 defenses;

21 THEREFORE IT IS HEREBY STIPULATED that the two above captioned actions  
22 are consolidated, pursuant to Fed. R. Civ. Proc. 42(a), for all purposes including trial.  
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24  
25 Dated: March 27, 2009

HOSIE RICE LLP

26 /s/ George F. Bishop  
27 Spencer Hosie  
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Implicit Networks, Inc. in CV 09-0201  
and Attorney for Plaintiff/Counter-defendant in CV-  
09-1342*

Dated: March 27, 2009

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Date: March 27, 2009

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*Attorneys for Defendant International Business  
Machines Corporation*

**CERTIFICATION PURSUANT TO GENERAL ORDER 45**

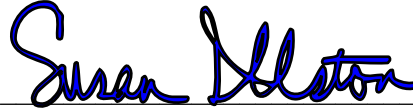
Pursuant to General Order 45X.B, I, George Bishop, attest that the above signatories have concurred and consented to the filing of this document.

DATED: March 27, 2009

/s/George F. Bishop  
George F. Bishop

1 **PURSUANT TO STIPULATION IT IS SO ORDERED**

2 Dated: \_\_\_\_\_



3 Honorable Susan Illston  
4 JUDGE OF THE U.S. DISTRICT COURT

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**CERTIFICATE OF SERVICE**

1  
2 I, Janine DeAndre, am a citizen of the United States and am employed in the  
3 County of San Francisco, State of California. I am over the age of 18 years and am not a  
4 party to the within action. My business address is Hosie Rice LLP, 188 The Embarcadero,  
5 Suite 750, San Francisco, California, 94105.

6 On March 27, 2009, I served the following attached:

7  
8 **STIPULATED MOTION TO CONSOLIDATE CASES PURSUANT TO FED.  
R. CIV. P. 42(A) AND [PROPOSED] ORDER**

9 by E-mail at San Francisco, California, addressed to the following parties:

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*Attorneys for Defendant International Business Machines Corporation*



1 I certify under penalty of perjury under the laws of the State of California that the  
2 foregoing is true and correct.

3  
4 DATED: March 27, 2009

5 /s/ Janine DeAndre  
6 Janine DeAndre

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