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9 Attorneys for Defendant Vertical Computer Systems, Inc.

10 IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 INTERWOVEN INC.,
 12
 Plaintiff,
 13
 v.
 14 VERTICAL COMPUTER SYSTEMS, INC.,
 15
 Defendant.

Case No. 3:10-cv-4645-RS
 [4:11-cv-2425-RS]

**STIPULATION TO CONSOLIDATE
 CASES AND VACATE CASE
 MANAGEMENT CONFERENCE;
 [PROPOSED] ORDER**

16 Defendant, Vertical Computer Systems, Inc. ("Vertical") and Plaintiff, Interwoven Inc.
 17 ("Interwoven") respectfully request that the Court consolidate the second action entitled, Vertical
 18 Computer Systems, Inc. v. Interwoven Inc., Case No. 4:11-cv-2425-RS (U.S. District Court for
 19 the Northern District of San Francisco) ("second action") into the existing action entitled,
 20 *Interwoven, Inc. v. Vertical Computer Systems, Inc.*, Case No. 3:10-cv-4645-RS (U.S. District
 21 Court for the Northern District of California, San Francisco Division) ("existing action"). While
 22 Defendant Interwoven Inc. opposes the request to consolidate in light of the existing action, it
 23 agrees to this stipulation based on representations by Vertical that it will voluntarily dismiss the
 24 second action (within three business days) when the Federal Circuit issues its order denying
 25

1 Vertical's writ of mandamus in the existing action in an effort to reduce the burdens on this
2 Court.¹ Conversely, Vertical represents that when the Federal Circuit issues its order granting
3 Vertical's writ of mandamus in the existing action, it will transfer the second action back to the
4 Texas court in which it was commenced, and seek to have the existing action dismissed.²

5 These two actions present essentially the same issues, the second action being the
6 transferred Vertical action which Vertical initiated in Texas and the existing action being the
7 declaratory judgment action that Interwoven initiated.

8 Vertical and Interwoven further request that the Court vacate the Case Management
9 Conference set for August 11, 2011, in the second action as they have already completed these
10 matters in the existing action.

11 Dated: August 4, 2011

12
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**Attorneys for Defendant Vertical Computer
Systems, Inc.**

22 ¹ Interwoven's counsel has repeatedly unsuccessfully attempted in good faith through correspondence and
23 telephone discussions to obtain a withdrawal of the second action. Unfortunately, Vertical's counsel refuses to
24 consent to the same.

25 ² Vertical cannot agree to dismiss the second action because it is necessary to the appeal to the Federal
26 Circuit and matters related thereto.

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: August 5, 2011



HONORABLE RICHARD SEEBORG
United States District Court

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