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6 IN THE UNITED STATES DISTRICT COURT  
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8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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10 DENNIS FERNANDEZ,

No. C 11-04491 WHA

11 Plaintiff,

12 v.

**ORDER TO SHOW CAUSE  
WHY THE CLAIMS IN THIS  
MULTI-DEFENDANT ACTION  
SHOULD NOT BE SEVERED**

13 ADOBE SYSTEMS, INC.; CISCO  
14 SYSTEMS, INC.; INTERCALL, INC.;  
and BLACKBOARD, INC.,

15 Defendants.  
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17 This action was filed on September 9, 2011, and was reassigned to the undersigned judge  
18 several weeks later. The complaint accuses four separate defendants of independent acts that  
19 allegedly constitute infringement of plaintiff's two patents. The four defendants are unrelated  
20 companies that sell unrelated products. Significantly, they are not alleged to have acted in  
21 concert to infringe plaintiff's asserted patents. They share no common transaction or occurrence.

22 As set forth in FRCP 20(a)(2), multiple defendants may be joined together in one action if  
23 "(A) any right to relief is asserted against them jointly, severally, or in the alternative with respect  
24 to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and  
25 (B) any question of law or fact common to all defendants will arise in the action." In situations of  
26 misjoinder and nonjoinder of parties, FRCP 21 provides that "[o]n motion or on its own, the court  
27 may at any time, on just terms, add or drop a party." The fact that separate parties manufacture,  
28 sell, or operate similar products that may infringe identical patents is not necessarily sufficient to


join unrelated parties as defendants in the same lawsuit pursuant to Rule 20(a).

*See WiAV Networks, LLC v. 3Com Corp.*, No. C 10-03448 WHA, 2010 WL 3895047 (N.D. Cal. Oct. 1, 2010).

Plaintiff is therefore **ORDERED TO SHOW CAUSE** why all but the first-named defendant should not be dismissed for misjoinder pursuant to FRCP 21. Plaintiff must file its response by **NOON ON OCTOBER 11, 2011**. Defendants may file any replies by **NOON ON OCTOBER 18, 2011**.

**IT IS SO ORDERED.**

Dated: September 28, 2011.

  
 WILLIAM ALSUP  
 UNITED STATES DISTRICT JUDGE