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Xinuos, Inc.

12 Attorneys for Plaintiff
13 X/Open Company Limited

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17 X/OPEN COMPANY LIMITED
18 Plaintiffs,
19 v.
20 XINUOS, INC.,
21 Defendant.

Case No. 3:16-cv-03122-RS

**STIPULATED DISMISSAL; ~~PROPOSED~~
ORDER**

23 Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, Plaintiff X/Open
24 Company Limited (“X/Open”) and Defendant Xinuos, Inc. (“Xinuos”), by and through their
25 respective undersigned counsel, stipulate to dismiss this action without prejudice.

26 On June 8, 2016, X/Open filed suit against Xinuos alleging trademark infringement,
27 trademark dilution, false advertising, unfair competition, and breach of contract. (Dkt. 1.) Xinuos
28 answered the complaint on August 2, 2016. (Dkt. 15.)

1 Based on the parties' settlement agreement (the "Agreement"), X/Open and Xinuos agree to
2 dismiss, without prejudice, all claims and defenses asserted in this action. Under the terms of the
3 Agreement, this stipulated dismissal without prejudice will become a stipulated dismissal with
4 prejudice effective January 31, 2018, pending Xinuos's full performance of the obligations under the
5 Agreement and unless X/Open files a stipulated consent judgment for breach of the Agreement prior
6 to that date.

7 This case is not a class action under Federal Rule of Civil Procedure 23, a derivative action
8 under Rule 23.1, or a related action to an unincorporated association under Rule 23.2. A receiver
9 has not been appointed in this case under Rule 66, and this case is not governed by a federal statute
10 that requires a court order for dismissal of the case.

11 Neither X/Open nor Xinuos have previously dismissed any federal- or state-court claims or
12 defenses based on or including the same claims and defenses as those presented in this case.

13 By signature below, counsel for X/Open attests that counsel for Xinuos concurs in the filing
14 of this paper.

15
16 Dated: April 28, 2017

By: /s/ Morgan E. Smith

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Dated: April 28, 2017

By: /s/ Vijay K. Toke

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Attorneys for Defendant
Xinuos, Inc.

~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 5/1/17



The Hon. Richard Seeborg
United States District Judge
Northern District of California