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6 Attorneys for Plaintiff
 NETWORK APPLIANCE, INC.

7
 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

10
 11 NETWORK APPLIANCE, INC., a Delaware
 corporation,

12 Plaintiff,

13 v.

14 BLUEARC CORP., a Delaware corporation,

15 Defendant.
 16

Case No. C 03-05665 MHP

E-FILING

**DECLARATION OF JACLYN C. FINK IN
 SUPPORT OF PLAINTIFF NETWORK
 APPLIANCE, INC.'S MOTION TO
 STRIKE THE EXPERT REPORT OF
 MARK E. NUSBAUM**

1 I, Jaclyn C. Fink, declare:

2 1. I am associated with the law firm of Howrey Simon Arnold & White, LLP, counsel of
3 record for Network Appliance, Inc. I am a member in good standing of the State Bar of California. I
4 have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and
5 would testify competently to such facts under oath.

6 2. Exhibit A is a true and correct copy of defendant BlueArc Corporation's First Amended
7 Answer and Counterclaim.

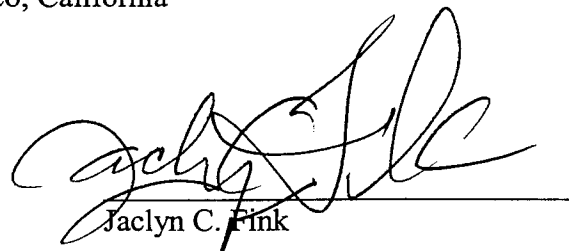
8 3. Exhibit B is a true and correct copy of the Expert Report of Mark E. Nusbaum.

9 4. Exhibit C is a true and correct copy of selected excerpts of the April 8, 2005 Deposition
10 of Mark Nusbaum.

11 5. Exhibit D is a true and correct copy of the Expert Report of Marshall Kirk McKusick,
12 Ph.D.

13 I declare under penalty of perjury under the laws of the United States of America that the
14 foregoing is true and correct.

15 Executed this April 15, 2005 in San Francisco, California

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19 Jaclyn C. Fink
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