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16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 SAN JOSE DIVISION

19 SUN MICROSYSTEMS, INC.,
 20 Plaintiff,
 21 vs.
 22 GREENBYTES, INC.,
 23 Defendant.

Case No. CV 09-2745 RMW (RS)

**STIPULATION AND ~~PROPOSED~~ ORDER
 TO SHORTEN TIME ON SUN'S MOTION
 TO COMPEL RULE 26(f) CONFERENCE
 AND IDENTIFICATION OF TRADE
 SECRETS PURSUANT TO CAL. CIV. PRO.
 CODE § 2019.210 AND FOR AN EXPEDITED
 DISCOVERY SCHEDULE**

Magistrate Judge Richard Seeborg

STIPULATION TO SHORTEN TIME

1
2 WHEREAS, Plaintiff filed a motion on October 9, 2009, to compel Defendant to participate in
3 the Fed. R. Civ. P. 26(f) discovery conference in good faith and to serve an identification of trade
4 secrets in accordance with Cal. Civ. Proc. Code § 2019.210, and for an expedited discovery schedule
5 (the “Motion”);

6 WHEREAS, the Motion presently is set for hearing on November 18, 2009, at 9:30 a.m., in
7 Department 5, Courtroom 4, of the United States District Court located at 280 South 1st St., San Jose,
8 California 95113;

9 WHEREAS, the parties jointly request an order shortening time for the briefing and hearing of
10 the Motion as follows: Defendant shall file its responsive brief on October 26, 2009; Plaintiff shall file
11 its reply brief on November 2, 2009; and the Motion shall be heard at 9:30 a.m. on November 12 (or at
12 the next available time and/or date convenient to the Court);

13 WHEREAS, the requested time modification would accelerate the hearing of the Motion by six
14 days and shorten the briefing schedule such that the Court would receive the responsive and reply
15 briefs 17 days and 10 days before the hearing, respectively, instead of 21 days and 14 days as provided
16 by Civil Local Rule 7.3;

17 WHEREAS, the requested time modification would not affect any other scheduled events in the
18 case;

19 WHEREAS, there has been only one prior time modification in this case, namely an extension
20 of time for Defendant to respond to Plaintiff’s first amended complaint (*see* Docket No. 12);

21 WHEREAS, there is a later-filed action by GreenBytes against Sun pending in the Rhode
22 Island Superior Court that arises from the same trade secret dispute presented in Sun’s complaint here,
23 and on August 17, 2009, the Rhode Island Superior Court entered a stay in that case but stated that
24 GreenBytes could move to lift the stay if the case in this Court is not proceeding expeditiously;

25 WHEREAS, on October 1, 2009, GreenBytes moved to lift stay, and on October 2, 2009, the
26 Rhode Island Superior Court set a hearing on that motion for October 20, 2009;

27 WHEREAS, on October 14, 2009, GreenBytes agreed that it will not seek to lift the stay at the
28 October 20 hearing but instead will ask the Rhode Island Superior Court to enter an order stating that

1 GreenBytes will inform Sun on November 25, 2009, if GreenBytes still intends to seek to lift the stay,
2 and that if it does so, the parties shall submit briefs on the issue on December 2, 2009, and the Court
3 shall hear the motion during the week of December 7, 2009;

4 WHEREAS, the parties agree that good cause exists to shorten time as proposed above because
5 the parties wish to commence discovery as soon as possible, to conduct discovery in the most
6 expeditious and efficient manner, and to avoid unnecessary motion practice, and to accomplish these
7 shared goals they require a judicial resolution of their disagreements relating to the application of Cal.
8 Civ. Proc. Code § 2019.210;

9 THE PARTIES HEREBY STIPULATE AS FOLLOWS:

10 Defendant shall file its responsive brief on October 26, 2009; Plaintiff shall file its reply brief
11 on November 2, 2009; and the Motion shall be heard at 9:30 a.m. on November 12 (or at the next
12 available time and/or date convenient to the Court).

13 IT IS SO STIPULATED.

14 Dated: October 16, 2009

/s/ Leigh A. Kirmssé

Counsel for Plaintiff Sun Microsystems, Inc.

16 Dated: October 16, 2009

/s/ Jeffrey Techentin

Counsel for Defendant GreenBytes, Inc.

19 **PROPOSED ORDER**

20 PURSUANT TO STIPULATION, THE COURT ORDERS AS FOLLOWS:

- 21 1. Defendant shall file its responsive brief on October 26, 2009.
- 22 2. Plaintiff shall file its reply brief on November 2, 2009.
- 23 3. The Motion shall be heard at ^{10:00 AM} _____ on November 13, 2009.

24 IT IS SO ORDERED.

25 Dated: October 19, 2009



Magistrate Judge Richard Seeborg

U.S. District Court, Northern District of California