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United States District Court  
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

Coatek, Inc,  
Plaintiff,  
v.  
ITEQ Corp.,  
Defendant.

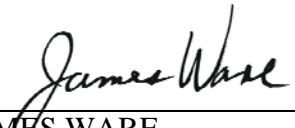
NO. C 09-03514 JW

**ORDER RE. HEARING ON  
DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT**

This case is currently set for hearing on February 28, 2011 at 9 a.m. on Defendant ITEQ Corp.'s Motion for Summary Judgment. (See Docket Item No. 63.) Upon review of the papers submitted thus far, the Court is prepared to grant summary judgment in favor of Defendant based on Plaintiff's failure to provide evidence as to three elements of Plaintiff's breach of contract claim: (1) that Plaintiff performed or was excused from performing the terms of the contract; (2) that Defendant was in breach of contract; and (3) that Plaintiff suffered damages resulting from Defendant's breach.

At the February 28, 2011 hearing, Plaintiff shall be prepared to show by way of specific evidence and facts creating triable issue which would preclude summary judgment in favor of Defendant.

Dated: February 16, 2011

  
\_\_\_\_\_  
JAMES WARE  
United States District Chief Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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8 **Dated: February 16, 2011**

**Richard W. Wieking, Clerk**

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By:           /s/ JW Chambers            
**Elizabeth Garcia**  
**Courtroom Deputy**