

United States District Court
For the Northern District of California

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****E-filed 1/20/2011****

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

SAN FRANCISCO TECHNOLOGY, INC.,
Plaintiff,
v.
UNILOCK, INC.,
Defendant.

No. C 10-1656 RS

**ORDER RE STIPULATION FOR
DISMISSAL**

In this *qui tam* action under the “false marking” provisions of the Patent Act, 35 U.S.C. § 292, the parties submitted a stipulation and proposed order for dismissal, pursuant to a settlement agreement between them. By order entered December 23, 2010, plaintiff was directed to file papers addressing, (1) whether it must remit one-half the settlement proceeds to the United States, and, if so, whether it has done so, (2) the extent to which the government is entitled to notice of, and an opportunity to object to, the settlement, and (3) the extent to which the Court is obligated to review and approve the terms of the settlement.

In response, plaintiff has filed a brief, signed by counsel under Rule 11 of the Federal Rules of Civil Procedure, asserting that the parties participated in a conference call with a representative from the Department of Justice prior to executing their written settlement agreement, and that the government did not object to the settlement terms or the dismissal of this action. Plaintiff also asserts that it has remitted one half the settlement proceeds to the government.

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In the absence of any statutory requirement for court review of the substantive settlement terms, entry of dismissal pursuant to stipulation in actions of this nature is appropriate upon a showing that the government has been given notice and an opportunity to object, and that one-half the settlement proceeds will be paid to the government. Accordingly, the parties' stipulated order for dismissal will be entered.

Plaintiff has brought *qui tam* claims under 35 U.S.C. § 292 against numerous other defendants that remain pending as separate actions before this Court. In the event the parties to any of those actions reach settlements and seek stipulated dismissals, plaintiff is directed to submit with each such stipulation for dismissal a declaration establishing that (1) the government has received appropriate notice of the settlement and does not object, and (2) one-half the settlement proceeds have been or will be remitted to the government promptly upon plaintiff's receipt of the funds. Plaintiff shall show that the stipulation and declaration has been served upon the government. In the event no opposition is received from the government within 15 days thereafter, any such stipulation for dismissal will be entered without the necessity of further action by the parties.

IT IS SO ORDERED.

Dated: 1/20/11



RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE