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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

DIAGNOSTIC SYSTEMS CORP.,

Plaintiff,

vs.

SYMANTEC CORPORATION; F-SECURE, INC.; NETIQ CORPORATION; QUEST SOFTWARE, INC.; NETSCOUT SYSTEMS, INC.; INTERNATIONAL BUSINESS MACHINES CORPORATION; SAP AMERICA, INC.; MICROSTRATEGY, INC. d/b/a MSIMICROSTRATEGY INCORPORATED; INFORMATION BUILDERS, INC.; ASPEN TECHNOLOGY, INC. d/b/a MASSACHUSETTS ASPEN TECHNOLOGY, INC.

Defendants.

CASE NO. SA CV 06-1211 DOC (ANx)
LEAD CASE (CONSOLIDATED with Case No. SACVO7-960 AG (MLGx))

PLAINTIFF'S STIPULATION OF DISMISSAL OF NETSCOUT SYSTEMS, INC.

JURY TRIAL DEMANDED

The Honorable David O. Carter

DIAGNOSTIC SYSTEMS CORPORATION,

Plaintiff,

vs.

ORACLE CORPORATION; SAS INSTITUTE, INC.; BUSINESS OBJECTS AMERICAS; fka BUSINESS OBJECTS INC.; BMC SOFTWARE, INC.; COGNOS CORPORATION,

Defendants.

CASE NO. SACVO7-960 AG (MLGx)) **(CONSOLIDATED** with Case No. SA CV 06-1211 DOC (ANx) **[LEAD CASE]**

Plaintiff Diagnostic Systems Corporation ("DSC"), and Defendant NetScout Systems, Inc., ("NetScout") hereby inform the Court that they have resolved the dispute between DSC and NetScout.

Accordingly, pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, DSC hereby dismisses with prejudice the claims asserted against NetScout in this action, and NetScout dismisses with prejudice all claims and counterclaims for declarations and fees asserted in this action against DSC. The parties stipulate that each party will bear its own costs and attorneys' fees relating to the dismissed claims.

Dated: February 11, 2009

SHORE CHAN BRAGALONE, LLP

By: _____
Jeffrey R. Bragalone

Attorneys for Plaintiff
DIAGNOSTIC SYSTEMS CORPORATION

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So Stipulated.

Dated: February 11, 2009

COOLEY GODWARD KRONISH LLP

By: Richard Sanders by permission
Richard S. Sanders, Esq.

ATTORNEYS FOR DEFENDANT
NETSCOUT SYSTEMS, INC.

PROOF OF SERVICE

I, Rachel Myrick, declare:

I am over the age of 18 years, am not a party to this Action, and am employed in the County of Dallas, Texas. My business address is SHORE CHAN BRAGALONE LLP, 901 Main Street, Suite 3300, Dallas, Texas 75202.

On February 11, 2009, I caused to be served the following documents:

1. **PLAINTIFF'S STIPULATION OF DISMISSAL OF NETSCOUT SYSTEMS, INC.**
2. **ORDER GRANTING PLAINTIFF'S STIPULATION OF DISMISSAL OF NETSCOUT SYSTEMS, INC.**

on the following individuals and entities, as addressed below in the Service List, by the means indicated below:

___ **BY FEDERAL EXPRESS.** I caused above-identified document(s) to be placed in a sealed Federal Express envelope(s) with delivery fees fully prepaid, for delivery to addressee(s) on the next business day.

___ **BY FACSIMILE.** I caused the above-identified document(s) to be sent by facsimile transmission to the party(ies) listed below at the facsimile number(s) shown.

___ **BY HAND DELIVERY.** I directed a messenger/courier to personally deliver said document(s) to the addressees identified below on the same business day.

___ **BY U.S. MAIL.** I caused the above-identified document(s) to be deposited for collection at Shore Chan Bragalone following the regular practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service on this day.

X **ELECTRONIC MAIL.** I caused the above-identified document(s) to be sent by electronic mail via the Court's ECF filing system to all counsel of record for Defendants and electronic mail to all parties who have not registered for ECF filing.

I declare under penalty of perjury that the following is true and correct.

Executed at Dallas, Texas on February 11, 2009.

/s/ Rachel Myrick
Rachel Myrick

SERVICE LIST

CASE NO. SA CV 06-1211 DOC (ANx)[**LEAD CASE**]

DIAGNOSTIC SYSTEMS CORPORATION vs. SYMANTEC, et. al.

(CONSOLIDATED with Case No. SACVO7-960 AG (MLGx))

DIAGNOSTIC SYSTEMS CORPORATION vs. COGNOS CORPORATION, et. al.

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