IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SUMMIT DATA SYSTEMS, LLC, Plaintiff, v. EMC CORPORATION, BUFFALO TECHNOLOGY (USA), INC., D-LINK SYSTEMS, INC., HITACHI DATA SYSTEMS CORPORATION, INFORTREND CORPORATION, NETAPP, INC., NETGEAR, INC. and QNAP, INC., Defendants.	)	C.A. No. 10-749 (GMS)

ORDER OF DISMISSAL AND PERMISSION TO FILE A REQUEST FOR COSTS AND ATTORNEYS' FEES

The motion of Plaintiff Summit Data Systems, LLC for dismissal with prejudice of its patent infringement claims pursuant to Federal Rule of Civil Procedure 41(a)(2), having been presented to this Court, and NetApp having requested as a condition of the dismissal that it be permitted to request attorneys' fees and costs; the parties having been given an opportunity to be heard and for good cause shown;

IT IS HEREBY ORDERED, that, pursuant to Rule 41(a)(2), Summit's patent infringement claims are dismissed with prejudice against NetApp on the condition that NetApp may request attorneys' fees and costs and that NetApp's declaratory judgment claims are dismissed as moot. Accordingly, NetApp shall submit its opening brief on its application for attorneys' fees and costs on January 29, 2013. Summit shall submit its answering brief on February 19, 2013. NetApp will submit its reply brief on

March 1, 2013. The Court will advise the parties if argument is required. The case scheduling order in this matter is vacated.

IT IS SO ORDERED this ____ day of _____, 2013

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The Honorable Gregory M. Sleet
United States District Court Judge