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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

13 MICHAEL B. ESHELMAN, D.D.S.; PETER
F. SILCHER, D.D.S.; and LORI I. SILCHER,

No. C 07 1429 JSW

14 Plaintiffs,

15 JOINT CASE MANAGEMENT
16 STATEMENT AND [PROPOSED] ORDER

17 v.

18 ORTHOCLEAR HOLDINGS, INC. a British
Virgin Islands Company; ORTHOCLEAR,
INC., a Delaware Corporation;
19 MUHAMMAD ZIAULLAH CHISHTI, an
individual; HUAFENG "CHARLES" WEN,
an individual; PETER RIEPENHAUSEN, an
individual; ARTHUR T. TAYLOR, an
20 individual; SAIYED ATIQ RAZA, an
individual; CHRISTOPHER KAWAJA, an
individual; PATRICIA HUMELL SEIFERT,
21 an individual; JOSEPH BREELAND, an
individual; MUDASSAR RATHORE, an
individual; PAUL BADAWI, an individual;
22 3i Technology Partners III, LP; and DOES 1
23 through 25, inclusive,,
24

Date: January 4, 2008
Time: 9:00 a.m.
Courtroom: 2

Discovery Cutoff: None set
Motion Cutoff: None set
Trial Date: None set

25 Defendants.

JOINT CASE MANAGEMENT CONFERENCE STATEMENT

1
2 Plaintiffs MICHAEL B. ESHELMAN, D.D.S., PETER F. SILCHER, D.D.S., AND
3 LORI I. SILCHER (“Plaintiffs”) and Defendants OCUMENTA CAPITAL HOLDINGS, INC.
4 (formerly ORTHOCLEAR HOLDINGS, INC.) (“OrthoClear”); OCUMENTA, INC. (formerly
5 ORTHOCLEAR, INC.); MUHAMMAD ZIAULLAH CHISHTI; HUAFENG “CHARLES”
6 WEN; PETER RIEPENHAUSEN; ARTHUR T. TAYLOR; SAIYED ATIQ RAZA;
7 CHRISTOPHER KAWAJA; PATRICIA HUMELL SEIFERT; JOSEPH BREELAND;
8 MUDASSAR RATHORE; PAUL BADAWI; and 3i TECHNOLOGY PARTNERS III, LP
9 (“Defendants”)¹ respectfully submit this Joint Case Management Statement for consideration at
10 the Case Management Conference set for hearing on January 4, 2008.

11 **1. Jurisdiction And Service.**

12 This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C.
13 §1331 and Section 27 of the Exchange Act (15 U.S.C. §78aa). This Court also has supplemental
14 jurisdiction pursuant to 28 U.S.C. §1367(a). No issues exist regarding personal jurisdiction or
15 venue, and all parties except for Mudassar Rathore, who resides in Pakistan, have been properly
16 served in this action. Defendants propose a deadline of January 31, 2008, to serve or dismiss Mr.
17 Rathore. Plaintiffs propose that the deadline for service of Mr. Rathore be 60 days after a final
18 ruling on all challenges to the pleadings by the already served defendants.

19 **2. A Brief Description Of The Events Underlying The Action.**

20 **a. Plaintiffs’ Position.**

21 OrthoClear was founded in 2004 to manufacture and sell transparent plastic appliances
22 that correct misaligned teeth. It raised between \$10 million and \$12 million from the class
23 members through the sale of unregistered securities without disclosing that the intellectual
24 property (“IP”) upon which the Company was founded (including critical patents for its
25

26 ¹Muhammad Ziaullah Chishti, Huafeng “Charles” Wen, Peter Riepenhausen, Arthur T.
27 Taylor, Saiyed Atiq Raza, Christopher Kawaja, Patricia Humell Seifert, and Joseph Breeland are
28 referenced herein as the “D&O Defendants.” OrthoClear, Ocumenta, Inc. and the D&O
Defendants are collectively referenced herein as the OrthoClear Defendants. Badawi and 3i are
collectively referenced herein as the 3i Defendants.

1 production processes) was stolen from Align Technology, Inc. (“Align”). In 2006, it raised an
2 additional \$10 million from Defendant 3i, a venture capital firm. To convince potential
3 investors that Align’s suits would fail, Defendants claimed that: (1) Align’s claims were
4 “frivolous”; (2) the lawsuits would have no material impact on OrthoClear’s growth;
5 (3) OrthoClear owned the intellectual property that Align claimed had been misappropriated;
6 (4) OrthoClear’s patents did not infringe Align’s patents; and (5) OrthoClear was on the verge of
7 a public offering.

8 In September 2006, OrthoClear abruptly settled with Align by agreeing to give up its IP
9 and abandon the orthodontic business. OrthoClear’s directors and officers misrepresented to the
10 shareholders the reasons for settlement and the consequences of approving it. While encouraging
11 shareholders to wait patiently for disposition of the remaining company assets, OrthoClear and 3i
12 secretly negotiated a return to 3i of virtually its entire investment, leaving only a fraction of the
13 Align settlement funds for distribution to the other shareholders. This class action lawsuit
14 followed.

15 **b. Defendants’ Position.**

16 The OrthoClear Defendants deny any wrongdoing and believe that plaintiffs have not met
17 – and cannot meet – the pleading requirements of the Private Securities Litigation Reform Act
18 (“PSLRA”) or even the Federal Rules of Civil Procedure (“FRCP”).

19 The Purchase Agreements for OrthoClear’s Series A, B, and C preferred shares included
20 acknowledgements of various disclosed risk factors, including the Align litigation. Orthoclear
21 also disclosed that the outcome of the Align litigation was unknown and that an adverse result
22 would have a substantial negative impact on Orthoclear and its investors.

23 In addition, the D&O Defendants and their relatives purchased almost half of the total of
24 approximately \$19.7 million of Series A, B and C preferred shares that were sold by OrthoClear.

25 Align ultimately filed five separate proceedings against Orthoclear. In September 2006 –
26 after almost two years of multi-front litigation that had cost OrthoClear more than \$12 million in
27 defense costs – Align and OrthoClear reached a settlement that provided, among other things,
28 that all pending litigation would be dismissed, all of Orthoclear’s and its founders’ intellectual

1 property rights would be assigned to Align, and Align would pay a total of \$20 million to
2 OrthoClear.

3 Since settling the Align litigation, OrthoClear has closed its operations and has used its
4 limited resources to settle with the Series D preferred shareholders and most of the Series A, B
5 and C preferred shareholders (other than defendants or their relatives). As a result, the maximum
6 potential class is now only 50 preferred shareholders who purchased approximately \$2.96 million
7 of Series A, B or C preferred shares – less than a third of what the D&O Defendants and their
8 families had purchased.

9 **c. 3i Defendants' Position**

10 In August of 2006 – approximately six weeks before OrthoClear was forced to
11 shutter its business – 3i Technology Partners III, L.P. invested \$10 million to acquire Class D
12 senior preferred shares of Orthoclear. The Class D senior preferred shares provided that, in the
13 event of a "deemed liquidation event" (including a sale of substantially all of OrthoClear's
14 assets), 3i would receive the return of its \$10 million investment before any other investor
15 received any return of its investment. This priority was a material term – indeed, the material
16 term – of 3i's investment. Had 3i not received such contractual priority, 3i would not have
17 invested in OrthoClear. The junior preferred shareholders were informed that 3i was investing as
18 a senior preferred shareholder with a priority liquidation preference of \$10 million. By an
19 overwhelming majority, the junior preferred shareholders approved 3i's investment on these
20 terms. Moreover, in the investment documents executed by OrthoClear in connection with 3i's
21 Class D senior preferred investment, OrthoClear did not disclose the nature of Align's claims
22 against OrthoClear (or the advanced stage of such claims) and, in fact, represented to 3i that no
23 basis for such claims existed.

24 In September 2006, when the Align settlement was presented to the OrthoClear
25 Board, 3i's newly appointed Board representative, Paul Badawi, recused himself from all
26 deliberations on the proposed Align settlement. On October 6, 2006, the Align settlement
27 became effective. Immediately thereafter, Badawi resigned from the OrthoClear Board of
28 Directors. Because it involved a sale of substantially all of the Company's assets, the Align

1 settlement was unquestionably a "deemed liquidation event" under the OrthoClear charter.
2 Accordingly, 3i demanded a return of its investment in precisely the manner provided in the
3 OrthoClear charter. When OrthoClear demurred, 3i threatened litigation. The parties then
4 engaged in protracted and often contentious negotiations. Four months later, representatives of
5 OrthoClear contacted 3i and proposed a settlement of 3i's claims for an amount that was less than
6 the full liquidation preference to which 3i was entitled under the terms of OrthoClear's charter.
7 After further negotiations, OrthoClear and 3i struck a compromise, in which 3i agreed to accept
8 \$8.5 million – \$1.5 million less than the \$10 million to which it was contractually entitled – in
9 settlement of its senior preferred claim, and other potential claims, against OrthoClear and the
10 OrthoClear directors. A settlement agreement was executed between the parties.

11 3i had every right to receive \$8.5 million in compromise of its claim to the \$10
12 million liquidation preference. The Company, in turn, had every right to agree to such a
13 settlement with 3i. In fact, the junior preferred shareholders benefited from the settlement -- to
14 the tune of \$1.5 million to which they were not entitled. They have no viable claim against
15 Badawi or 3i.

16 **d. The Principal Factual Issues In Dispute.**

17 In general, the parties dispute: (1) whether Defendants deceived the Class as to the merits
18 of the Align Litigation, the validity of OrthoClear's ownership interest in its patents and other
19 intellectual property, whether OrthoClear's patents and business operations infringed Align's
20 patents, the effect of the costs of the Align Litigation on OrthoClear's ability to continue in
21 business and conduct a defense of the cases, and whether OrthoClear was making an initial
22 public offering; (2) whether the Series A, B and C preferred shares had to be registered under
23 federal law or qualified under state laws; (3) whether Defendants and Badawi deceived Plaintiffs
24 about the true reasons for the Align settlement and all other related facts and circumstances; (4)
25 whether Defendants falsely reassured shareholders that remaining Company assets would be
26 used to meet obligations to all shareholders; (5) whether 3i was entitled to a liquidation
27 preference on a priority basis ahead of the junior preferred shareholders; (6) whether Defendants
28 breached fiduciary duties by allegedly favoring the interests of 3i over the remaining

1 shareholders; (7) whether the distribution to 3i violated OrthoClear Holdings' Articles and
2 Memorandum of Association; (8) whether that distribution harmed any other preferred
3 shareholder; (9) whether the agreement between 3i and OrthoClear, and the subsequent
4 distribution to 3i by the Company, were permissible and lawful; (10) whether plaintiffs and all
5 members of the class received and relied on any alleged misrepresentations before they invested;
6 and (11) whether plaintiffs and all members of the class were damaged by any alleged post-
7 investment misrepresentation.

8 **3. The Principal Legal Issues Which The Parties Dispute.**

9 Plaintiffs allege – and Defendants deny – that the conduct described in the Second
10 Amended Complaint constitutes a violation of Section 10(b) of The Exchange Act and Rule
11 10b-5, a violation of Section 12(a)(1) of The Securities Act of 1933, intentional
12 misrepresentation, negligent misrepresentation, breach of fiduciary duty, a violation of §121 of
13 the British Virgin Islands' Business Companies Act, a breach of California Corporations Code
14 Section 2116; and that Defendant 3i holds the \$8.5 million paid to it in constructive trust for the
15 Class. Defendants maintain – and Plaintiffs dispute – that the claims alleging breach of fiduciary
16 duty, constructive trust, and violations of California and BVI statutes constitute derivative claims
17 that may be asserted only in a derivative action. The parties also dispute whether, as a matter of
18 law, Badawi may be held liable for actions taken by the Board after his resignation as a director.

19 The parties anticipate that there will be disputes over the scope of the attorney-client
20 privilege arising from discovery related to Defendant Seifert (former OrthoClear General
21 Counsel) and outside lawyers representing OrthoClear in the Align litigation. Defendants also
22 anticipate that there may be disputes about claims by Align that disclosure or discovery by the
23 OrthoClear Defendants would violate the former's intellectual property rights, which now
24 include all of the intellectual property of OrthoClear and its founders that was assigned pursuant
25 to the settlement of the Align litigation.

26 **4. All Prior And Pending Motions.**

27 On August 8, 2007, Defendants 3i and Paul Badawi filed a motion to dismiss counts III,
28 V and VIII of Plaintiffs' Second Amended Complaint. On October 3, 2007, Defendants

1 OrthoClear Holdings, Inc., OrthoClear, Inc., Muhammad Ziaullah Chishti, Huafeng “Charles”
2 Wen, Peter Riepenhausen, Arthur T. Taylor, Saiyed Atiq Raza, and Joseph Breeland filed a
3 motion to dismiss counts I-VII and IX of plaintiffs’ Second Amended Complaint. Defendants
4 Seifert and Kawaja have joined the latter motion. The motions to dismiss are scheduled for
5 hearing on January 4, 2008.

6 On August 31, 2007, the Court heard and denied Plaintiffs’ motion to limit Defendant
7 OrthoClear’s contacts with potential class members and for corrective actions. No other motions
8 have been filed.

9 **5. Amendment Of Pleadings.**

10 Defendants anticipate that, depending upon the Court’s rulings on the pending (and
11 possibly subsequent) motions to dismiss, Plaintiffs may have to amend their pleadings until
12 resolved or dismissed in their entirety.

13 **6. Evidence Preservation.**

14 Both parties have initiated efforts to preserve evidence relevant to the issues reasonably
15 evident in these actions, including interdiction of any document destruction program and any
16 ongoing erasures of e-mails, voice mails, and other electronically recorded material.

17 **7. Disclosures.**

18 The PSLRA “provides that, upon the filing of a motion to dismiss by the defendants in a
19 private securities fraud action, ‘all discovery and other proceedings shall be stayed during the
20 pendency’ of such motion. *15 U.S.C. § 78u-4(b)(3)(B).*” *Medhekar v. U.S. District Court*, 99
21 F.3d 325, 327 (1996). Accordingly, the parties will make initial disclosures pursuant to FRCP
22 26(a) and develop a proposed discovery plan pursuant to FRCP 26(f) after the Court resolves the
23 pending (and any subsequent) motions to dismiss, as set forth in the proposed schedule below.

24 **8. Discovery Plan.**

25 *See* Section 7 above.

26 **9. Class Action Statement.**

27 **Plaintiff’s Position**

28 Plaintiffs hereby state the following, pursuant to Civil L.R. 16-9(b):

1 a. The *Eshelman, et al. v. OrthoClear Holdings, Inc., et al.* action is
2 maintainable as a consolidated class action under Fed. R. Civ. P. 23(a) and 23(b)(3).

3 b. The *Eshelman et al. v. OrthoClear Holdings, Inc., et al.* action is brought
4 on behalf of a class (the “Class”) of all persons who purchased or otherwise acquired OrthoClear
5 Holdings, Inc. Class A, Class B or Class C Preferred Shares during the Class Period and who
6 were damaged thereby. Excluded from the Class are the Defendants herein, members of the
7 immediate families of the D&O Defendants, any parent, subsidiary, affiliate, officer, or director
8 of OrthoClear, any entity in which any excluded person has a controlling interest, and the legal
9 representatives, heirs, successors and assigns of any excluded person.

10 c. The facts stated below demonstrate that Plaintiffs may maintain a class
11 action under Fed. R. Civ. P. 23(a) and 23(b):

12 Defendant OrthoClear has represented that there are 50 members of the putative Class.
13 Even this number, which includes members located throughout the U.S., makes joinder
14 impracticable. There is no evidence that the difference between the rights of Series A, B and C
15 Shareholders (which relate only to liquidation preference) justify the creation of subclasses, since
16 the same false representations were made to all investors in connection with the sale of securities,
17 the settlement of the Align litigation, and the secret payment to 3i. Pursuant to federal securities
18 laws, OrthoClear’s sale of Class A, B, and C shares constitute a single offering since these shares
19 were offered and sold within six months of each other.

20 Common questions of law and fact exist as to all members of the Class and predominate
21 over any questions solely affecting individual members, and include the following: (1) whether
22 the federal securities laws were violated by the Defendants’ acts and omissions; (2) whether
23 Defendants sold securities in violation of state and/or federal registration requirements;
24 (3) whether Defendants’ acts and omissions constituted a breach of fiduciary duty owed to
25 shareholders; (4) whether Defendants had knowledge of or were reckless or negligent with
26 respect to the improper activities described herein; (5) whether Defendants omitted and/or
27 misrepresented material facts about OrthoClear’s true financial condition, trade secrets, business
28 operations and the prospects for a successful resolution to the Align Litigation; (6) whether

1 Defendants acted knowingly, recklessly or negligently in omitting to state and/or misrepresenting
 2 material facts; (7) whether Defendant Badawi and the D&O Defendants breached the fiduciary
 3 duties to the shareholders by putting the interests of 3i above the interests of the shareholders of
 4 OrthoClear Holdings; (8) whether Plaintiffs and other members of the Class have sustained
 5 damages and, if so, the appropriate measure thereof.

6 Plaintiffs' claims are typical of the claims of the members of the Class and members have
 7 sustained damages arising out of the same wrongful course of conduct. Plaintiffs fairly and
 8 adequately will represent and protect the interests of the members of the Class, have retained
 9 competent counsel experienced in class and securities litigation and intend to prosecute this
 10 action vigorously.

11 **Defendants' Position.**

12 The named plaintiffs seek to represent all purchasers of OrthoClear's Series A, B, and C
 13 preferred shares (other than the D&O Defendants and their relatives), but each series of preferred
 14 shareholders has separate and distinguishable rights under the relevant Purchase Agreements.
 15 There are now a total of only 50 holders of Series A, B or C preferred shares that could be
 16 included in plaintiff's purported class, divided as follows: Series A - 18 shareholders; Series B -
 17 30 shareholders; and Series C - 9 shareholders.²

18 Each subclass must meet the numerosity requirement of Fed. R. Civ. P. 23(a) or 23(b) (3).
 19 *See Betts v. Reliable Collection Agency*, 659 F. 2d 1000, 1005 (9th Cir. 1981); *Hawkins v.*
 20 *Comparet-Cassani*, 251 F.3d 1230, 1238 (9th Cir. 2001). Although there is no strict numerical
 21 threshold for numerosity, courts have generally found that a class size less than 30 – the largest
 22 potential subclass here – would be too small. *General Tel. Co. of the Northwest, Inc. v. EEOC*,
 23 *446 U.S. 318 (1980)*; *Slavin v. BP America, Inc.*, 190 F.R.D. 649 (C.D. CA 2000); *Ikonen v.*
 24 *Hartz Mountain Corp.*, 122 F.R.D. 258 (S.D. CA 1988). Accordingly, none of the subclasses
 25 here would satisfy the numerosity requirement for class certification – especially if more

26 _____
 27 ²There are only 50 potential class members because some preferred shareholders
 28 purchased more than one series of shares. The total remaining amount in controversy is
 approximately \$2.96 million (of the approximate \$19.7 million raised from the Series A, B and C
 offerings).

1 preferred shareholders settle their claims individually.

2 Defendants also anticipate that they may have other objections to class certification (such
3 as whether the named plaintiffs actually received and relied on all of the misrepresentations
4 alleged in their pleadings) after written discovery and depositions of the named plaintiffs. Such
5 discovery is stayed by the PSLRA so the following proposed schedule runs from the date that the
6 pleadings will be resolved by a ruling denying any final motions to dismiss.

7 Defendants 3i and Badawi maintain that the claims against them are derivative in nature
8 and may not be brought by means of a direct class action but must be brought, if at all, by means
9 of a derivative action.

10 **Proposed Schedule Re Class Certification.**

11 Ruling + 30 days	Parties provide initial disclosures required by FRCP 26(a) other than documents.
12 Ruling + 60 days	Parties complete disclosure of documents, subject to any objections made by Align; deadline for parties to propound written discovery requests re class certification, which will be limited to document requests and ten interrogatories.
13 Ruling + 90 days	Responses to written discovery requests re class certification
14 Ruling + 120 days	Completion of class plaintiff depositions
15 Ruling + 140 days	Deadline for plaintiffs to file motion for class certification
16 Ruling + 161 days	Deadline for defendants to file opposition to motion
17 Ruling + 182 days	Deadline for plaintiffs' reply brief
18 Ruling + 196 days	Hearing on motion for class certification

19 **10. Related Cases.**

20 The parties are not aware of any other related cases or proceedings currently pending.

21 **11. Relief.**

22 The Second Amended Complaint seeks relief for damages as authorized by law, including
23 compensatory, consequential and other damages in excess thereof in an amount to be determined
24 at trial, punitive damages, prejudgment interest, attorneys' fees, costs to the extent permitted by
25 law, and, such other and further relief as the Court deems just and proper.

26 **12. Settlement And ADR.**

27 On July 20, 2007, the parties filed ADR Certification pursuant to Civil Local Rule 16-
28 8(b) and ADR Local Rule 3-5(b). On October 9 and 10, 2007 the parties conducted a two-day

1 settlement meeting with the Honorable Laurence Kay, a retired California appellate court justice,
 2 serving as mediator. The parties believe that additional ADR efforts would be premature until all
 3 motions to dismiss are resolved.

4 **13. Consent to Magistrate Judge For All Purposes.**

5 The parties do not consent to assignment of the case to a magistrate judge.

6 **14. Other References.**

7 This case is not suitable for reference to binding arbitration, a special master, or the
 8 Judicial Panel on Multidistrict Litigation.

9 **15. Narrowing Of Issues.**

10 The Plaintiffs do not believe that the issues can be narrowed further at this time.
 11 Defendants believe that the issues will be narrowed substantially by the pending motions to
 12 dismiss and may ultimately be eliminated.

13 **16. Expedited Schedule.**

14 The parties do not believe these cases can be handled on an expedited basis with
 15 streamlined procedures.

16 **17. Discovery And Trial Schedule.**

17 The PSLRA stay on discovery and the uncertainties about the pending motions to dismiss
 18 (and the ultimate scope of the litigation) make it impossible to propose a discovery and trial
 19 schedule with firm dates at this time. Moreover, the time required for fact discovery will depend
 20 on the ultimate scope of the pleadings.

21 As with the foregoing proposed schedule for class certification, the following schedule
 22 runs from the date of the final ruling on challenges to the pleadings by the Defendants who
 23 already have been served:

24	Ruling + 10 days	Discovery conference pursuant to Rule 26(f)
25	Ruling + 30 days	Parties complete initial disclosures other than document production.
26	Ruling + 60 days	Parties complete disclosure of documents, subject to any objections made by Align.
27	Ruling + 365 days	Fact discovery cutoff
28	Ruling + 395 days	Designation of experts
	Ruling + 455 days	Expert discovery cutoff
	Ruling + 545 days	Hearing on dispositive motions

Ruling + 605 days	Pretrial conference
Ruling + 665 days	Trial

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18. Trial.

Based on the current pleadings, Plaintiffs anticipate a 6 week trial and Defendants anticipate a 3 month trial, but time estimates would differ if the issues are narrowed by the Court's rulings on the motions to dismiss or summary judgment.

19. Disclosure Of Non-Party Interested Entities Or Persons.

All parties have filed the Certification of Interested Entities or Persons pursuant to Civil L.R. 3-16 and hereby reconfirm that there is no such interest other than that of the named parties to report.

20. Other Matters Affecting Disposition of This Matter.

At this time there are no other matters to address that may facilitate the just, speedy, and inexpensive disposition of this matter.

DATED: December 28, 2007

Respectfully submitted,

LAW OFFICES OF ALAN W. SPARER

By: _____
ALAN W. SPARER

Attorneys for Plaintiffs

Concurrence in the filing of this document has been obtained by each of the other signatories, except Defendant 3i which did not respond to requests for approval of the final changes to the Class Certification and Trial Schedules.

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DATED: December 28, 2007

SHARTSIS FRIESE LLP

By: _____
ARTHUR J. SHARTSIS

As counsel for Ocuementa, Inc. and Ocuementa Holdings, Inc. (f/k/a OrthoClear, Inc. and OrthoClear Holdings, Inc. respectively), Muhammad Ziaullah Chishti, Huafeng “Charles” Wen, Peter Riepenhausen, Arthur T. Taylor, Saiyed Atiq Raza, and Joseph Breeland

DATED: December 28, 2007

MCDERMOTT WILL & EMERY

By: _____
MATTHEW J. JACOBS

Attorneys for Defendant Kawaja

DATED: December 28, 2007

ROBIE & MATTHAI

By: _____
BERNADINE J. STOLAR

Attorneys for Defendant Patricia Seifert

DATED: December 28, 2007

BARTKO, ZANKEL, TARRANT & MILLER
And ROPES & GRAY LLP

By: _____
PETER L. WELSH

Attorneys for Defendants 3i Technology Partners III, LP and Paul Badawi

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CASE MANAGEMENT ORDER

1. The descriptions of the principal issues in the case that are set forth in the foregoing Joint Case Management Statement are hereby adopted by the Court as the Case Management Order pursuant to FRCP 16(b) for the above-referenced action.

2. Plaintiffs shall serve Defendant Mudassar Rathore by _____ or dismiss him from this action.

3. After the Plaintiffs' pleadings have been resolved through the pending (and any subsequent) motions to dismiss, the parties will comply with the class certification schedule set forth in Section 9 of the foregoing Joint Case Management Statement.

4. After the Plaintiffs' pleadings have been resolved through the pending (and any subsequent) motions to dismiss, the parties shall comply with the discovery and pretrial schedule set forth in Section 17 of the foregoing Joint Case Management Statement.

DATED: January __, 2008

UNITED STATES DISTRICT COURT JUDGE