

96CV1685-JBW-MO

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DATAPOINT CORPORATION,

Plaintiff,

- v -

STANDARD MICROSYSTEMS CORP. and
INTEL CORP.,

Defendants.

-----X
DATAPOINT CORPORATION,

Plaintiff,

- v -

STANDARD MICROSYSTEMS CORP. and
INTEL CORP., individually, and as
representatives of the class of all
manufacturers, vendors and users of
Fast Ethernet-complaint, dual protocol
local-area network products,

Defendants.

-----X
DATAPOINT CORPORATION,

Plaintiff,

- v -

CISCO SYSTEM, INC., et al.,

Defendants.

-----X
DATAPOINT CORPORATION,

Plaintiff,

- v -

DAYNA COMMUNICATIONS, INC., et al.,

Defendants.

-----X

Based on the relevant documents in the file, including the
transcript of the hearings; the patents; the report of the special

MEMORANDUM, ORDER
AND JUDGMENT

✓ 96 CV 1685 (JBW)

96 CV 3819 (JBW)

96 CV 4534 (JBW)

96 CV 6334 (JBW)

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master; the report and order of the magistrate judge recommending adoption of the special master's report; the briefs schematics and argument on the appeal from the magistrate judge's report and order; and reflection on the matter:

1. The report and recommendation of the magistrate judge is adopted; and the appeal is dismissed as without merit.

2. The report of the special master with respect to the claims of the patents upon which plaintiff relies is adopted; and all his findings are adopted by the court in their entirety, with the exception of what may be characterized as any suggestion of lack of infringement -- an issue beyond the scope of the references and of the authority of the special master or magistrate judge.

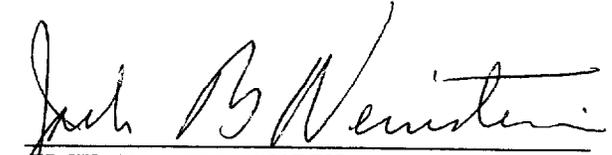
3. Since the parties have in effect conceded in open court on the record that an adverse ruling on plaintiff's claims must necessarily result in a dismissal of plaintiff's complaint for infringement, there is no need for generation of further papers by a formal motion for summary judgment. Accordingly, the complaint in each of these cases is dismissed on the merits with no costs or disbursements.

4. Should any party wish further formal findings of fact and law or a formal motion for summary judgment, it may move for such relief within fifteen days. The court will hear the motions on December 30, 1998 at 9:30 a.m. or at such other convenient time as arranged with case coordinator, June Lowe. Briefing schedules should be arranged by consent, but if agreement

is not possible the magistrate judge is respectfully requested to fix the schedules.

5. This order and judgment is stayed until December 30, 1998.

SO ORDERED.



JACK B. WEINSTEIN
United States District Judge

Dated: Brooklyn, New York
November 23, 1998