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Attorneys for Defendants and Counterclaimants  
 PURETHINK LLC, IGOV INC., and JOHN  
 MARK SUHY

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

NEO4J, INC., a Delaware corporation,  
 NEO4J SWEDEN, AB, a Swedish  
 corporation,

Plaintiffs,

v.

PURETHINK LLC, a Delaware limited  
 liability company, IGOV INC., a Virginia  
 corporation, and JOHN MARK SUHY, an  
 individual,

Defendants.

AND RELATED COUNTERCLAIMS.

CASE NO. 5:18-cv-07182-EJD

**STIPULATION AND [PROPOSED]  
 ORDER DISMISSING DEFENDANTS'  
 FIRST CAUSE OF ACTION FOR  
 INTENTIONAL INTERFERENCE WITH  
 PROSPECTIVE ECONOMIC  
 ADVANTAGE WITH PREJUDICE**

Date: April 27, 2023  
 Time: 9:00 a.m.  
 Dept.: Courtroom 4, 5<sup>th</sup> Floor

Judge: Hon. Edward J. Davila

Trial Date: November 14, 2023

**STIPULATION**

This Stipulation is made between Plaintiffs and Counter-Defendants Neo4j, Inc. and Neo4j Sweden AB (collectively “Plaintiffs”) and Defendants and Counterclaimants PureThink LLC, iGov Inc. and John Mark Suhy (collectively, “Defendants”). Plaintiffs and Defendants (collectively, the “Parties”) through their respective counsel HEREBY STIPULATE to a resolution of Plaintiffs’ Motion to Dismiss Defendants’ First Cause of Action in Their Third Amended Counterclaim (“Motion to Dismiss”) as follows:

WHEREAS, on September 3, 2021, Plaintiffs filed a motion for judgment on the pleadings seeking to dismiss a number of counterclaims asserted in Defendants’ Second Amended Counterclaim and Answer to Third Amended Complaint (“Plaintiffs’ Motion”). *See* Dkt. No. 132.

WHEREAS, on January 6, 2023, the Court granted, in part, Plaintiffs’ Motion. In doing so, the Court dismissed Defendants’ First Cause of Action for Intentional Interference with Prospective Economic Advantage, but also granted them leave to amend that claim. *See* Dkt. No. 168.

WHEREAS, on January 27, 2023, Defendants filed their Third Amended Counterclaim (“TACC”) wherein they re-asserted their First Cause of Action for Intentional Interference with Prospective Economic Advantage. *See* Dkt. No. 171.

WHEREAS, on February 9, 2023, Plaintiffs filed a motion to dismiss Defendants’ First Cause of Action for Intentional Interference with Prospective Economic Advantage asserted in the TACC (“Motion to Dismiss”). *See* Dkt. No. 172.

WHEREAS, Defendants’ opposition to the Motion to Dismiss is currently due on March 2, 2023 and the hearing is set for April 27, 2023. *See* Dkt. No. 174.

WHEREAS, rather than oppose Plaintiffs’ motion, Defendants offered to dismiss their First Cause of Action for Intentional Interference with Prospective Economic Advantage with prejudice.

WHEREAS, Fed. R. Civ. P. 41 only permits the complete dismissal of a complaint or counterclaim, and does not permit the dismissal of only certain claims “from a multi-claim complaint.” *Ethridge v. Harbor House Restaurant*, 861 F.2d 1389, 1392 (9th Cir. 1988). Instead, where a party seeks to dismiss certain claims, the proper procedure is to amend the complaint pursuant to Fed. R. Civ. P. 15(a) and/or stipulate that certain claims will not be pursued or will be

1 dismissed. *See Hells Canyon Pres. Council v. U.S. Forest Serv.*, 403 F.3d 683, 688 (9th Cir. 2005)  
 2 (“Federal Rule of Civil Procedure 15(a) is the appropriate mechanism ‘[w]here a plaintiff desires  
 3 to eliminate an issue, or one or more but less than all of several claims, but without dismissing as  
 4 to any of the defendants’”) (internal citations omitted).

5 ACCORDINGLY, IT IS HEREBY STIPULATED THAT:

6 1. Defendants’ First Cause of Action for Intentional Interference with Prospective  
 7 Economic Advantage is HEREBY DISMISSED WITH PREJUDICE.

8 2. Plaintiffs shall be considered the prevailing party with respect to that claim.

9 3. Defendants shall have until March 17, 2023 to file an amended counterclaim  
 10 omitting their First Cause of Action for Intentional Interference with Prospective Economic  
 11 Advantage and the allegations supporting that cause of action.

12 4. Defendants shall not be permitted to add any additional counterclaims or  
 13 allegations to their further amended counterclaim as the Court previously granted leave to amend  
 14 only with respect to the First Cause of Action and the time for the parties to amend their  
 15 respective pleadings has lapsed.

16 5. Upon the filing of Defendants’ amended counterclaim omitting their First Cause of  
 17 Action for Intentional Interference with Prospective Economic Advantage, Plaintiffs’ pending  
 18 Motion to Dismiss shall be taken off calendar.

19 6. Plaintiffs shall have twenty-one (21) days from the date Defendants file their  
 20 further amended counterclaim to file a response thereto.

21 Dated: March 1, 2023

HOPKINS & CARLEY  
 A Law Corporation

By: /s/ Jeffrey M. Ratinoff

John V. Picone III  
 Jeffrey M. Ratinoff  
 Attorneys for Plaintiffs and  
 Counter-Defendants  
 NEO4J, INC. and NEO4J SWEDEN AB

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1 Dated: March 1, 2023

/s/ Adron W. Beene

Adron W. Beene

Adron G. Beene

Attorneys for Defendants and Counter-  
Claimants

PURETHINK LLC, IGOV INC., and  
JOHN MARK SUHY

6 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

8  
9 Dated: \_\_\_\_\_

EDWARD J. DAVILA

United States District Court Judge

**ATTESTATION OF E-FILED SIGNATURE**

Pursuant to Local Rule 5-1(i)(3), I hereby certify that I have obtained the concurrence in the filing of this document from all signatories for whom a signature is indicated by a “conformed” signature (/s/) within this electronically filed document and I have on file records to support this concurrence for subsequent production to the Court if so ordered or for inspection upon request.

Dated: March 1, 2023

HOPKINS & CARLEY  
A Law Corporation

By: /s/ Jeffrey M. Ratinoff

John V. Picone III  
Jeffrey M. Ratinoff  
Attorneys for Plaintiffs and  
Counter-Defendants  
NEO4J, INC. and NEO4J SWEDEN AB