

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

CREDIT SUISSE SECURITIES (USA)
LLC; JPMORGAN CHASE & Co., a
Delaware corporation, successor in
interest to Hambrecht & Quist and
Chase Securities Inc.; BANK OF
AMERICA CORPORATION, a Delaware
corporation, successor in interest
to Fleetboston Robertson Stephens,
Inc.; ONVIA INC., a Delaware
corporation formerly known as
Onvia.com Inc.; ROBERTSON
STEPHENS, INC.; J.P. MORGAN
SECURITIES INC.,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35262

No. 09-35363

D.C. No. 2:07-cv-
01549-JLR
Western District of
Washington,
Seattle

1478

SIMMONDS v. CREDIT SUISSE SECURITIES

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

DEUTSCHE BANK SECURITIES INC.;
FOUNDRY NETWORKS INC., Nominal
Defendant, a Delaware
corporation; MERRILL LYNCH
PIERCE FENNER & SMITH
INCORPORATED; J.P. MORGAN
SECURITIES INC.,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35280
D.C. Nos.
2:07-cv-01566-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

MERRILL LYNCH & CO. INC.,
Defendant,

and

FINISAR CORPORATION, Nominal
Defendant, a Delaware
corporation; MERRILL LYNCH
PIERCE FENNER & SMITH
INCORPORATED; J.P. MORGAN
SECURITIES INC.,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35282
No. 09-35375
D.C. Nos.
2:07-cv-01567-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

MORGAN STANLEY & CO.,
INCORPORATED; LEHMAN BROTHERS,
INC.; BANK OF AMERICA
CORPORATION; ROBERTSON
STEPHENS, INC.; AVANEX
CORPORATION,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35285

D.C. Nos.
2:07-cv-01568-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

CREDIT SUISSE GROUP, a global
bank headquartered in Zurich,
Switzerland formerly known as
Credit Suisse First Boston
Corporation; BANK OF AMERICA
CORPORATION, a Delaware
corporation, successor in interest
to BancBoston Robertson
Stephens, Inc.; TIVO INC., Nominal
Defendant, a Delaware
corporation; ROBERTSON STEPHENS,
INC.,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35286

No. 09-35367

D.C. Nos.
2:07-cv-01576-JLR
2:07-cv-01549-JLR

1480

SIMMONDS v. CREDIT SUISSE SECURITIES

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

GOLDMAN SACHS & CO., a New
York limited partnership; BANK OF
AMERICA CORPORATION, a Delaware
corporation, successor in interest
to FleetBoston Robertson
Stephens, Inc.; ROBERTSON
STEPHENS INC., a Massachusetts
corporation,

Defendants-Appellees,

and

TURNSTONE SYSTEMS, INC., a
Delaware corporation,

Defendant.

In Re: SECTION 16(b) LITIGATION

No. 09-35288
D.C. Nos.
2:07-cv-01569-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

GOLDMAN SACHS & CO., “Goldman
Sachs”; CREDIT SUISSE SECURITIES
(USA) LLC, “Credit Suisse”
formerly known as Credit Suisse
First Boston Corporation; BANK OF
AMERICA CORPORATION, a Delaware
corporation, successor in interest
to BancBoston Robertson
Stephens, Inc.; ROBERTSON
STEPHENS, INC.; JUNIPER NETWORKS
INC.,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35289
D.C. Nos.
2:07-cv-01577-JLR
2:07-cv-01549-JLR

1482

SIMMONDS v. CREDIT SUISSE SECURITIES

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

MORGAN STANLEY & CO.,
INCORPORATED; DEUTSCHE BANK
SECURITIES, INC.; MERRILL LYNCH,
PIERCE, FENNER & SMITH
INCORPORATED; Ariba Inc.,
Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35290
No. 09-35381
D.C. Nos.
2:07-cv-01570-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

MORGAN STANLEY & CO.,
INCORPORATED; CITIGROUP GLOBAL
MARKETS, INC.; AKAMAI
TECHNOLOGIES, INC.,
Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35292
No. 09-35364
D.C. Nos.
2:07-cv-01571-JLR
2:07-cv-01549-JLR

SIMMONDS v. CREDIT SUISSE SECURITIES

1483

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

GOLDMAN SACHS GROUP INC., a
Delaware corporation; JPMORGAN
CHASE & Co., a Delaware
corporation, successor in interest
to Hambrecht & Quist LLC,
Defendants,

and

KANA SOFTWARE INC., Nominal
Defendant, a Delaware corporation
formerly known as Kana
Communications Inc.; GOLDMAN
SACHS & Co.; J.P. MORGAN
SECURITIES INC.,
Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35293

D.C. Nos.

2:07-cv-01578-JLR

2:07-cv-01549-JLR

1484

SIMMONDS v. CREDIT SUISSE SECURITIES

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

MORGAN STANLEY, a Delaware
corporation, successor in interest
to Morgan Stanley Dean Witter,
Defendant,

and

SILICON LABORATORIES INC.,
Nominal Defendant, a Delaware
corporation; MORGAN STANLEY &
CO. INCORPORATED; LEHMAN
BROTHERS INC.; CITIGROUP GLOBAL
MARKETS, INC.,
Defendants-Appellees,

JAMES W. GIDDENS,
TRUSTEE FOR THE
LIQUIDATION OF THE BUSINESS OF
LEHMAN BROTHERS INC.,
Trustee-Appellee.

In Re: SECTION 16(b) LITIGATION

No. 09-35297
No. 09-35373
D.C. Nos.
2:07-cv-01590-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

GOLDMAN SACHS GROUP INC., a
Delaware corporation,
Defendant,

and

BANK OF AMERICA CORPORATION, a
Delaware corporation, successor in
interest to BancBoston Robertson
Stephens, Inc.; PALM INC.,
Nominal Defendant, a Delaware
corporation; GOLDMAN SACHS &
CO.; MORGAN STANLEY & CO.
INCORPORATED; MERRILL LYNCH
PIERCE FENNER & SMITH
INCORPORATED; ROBERTSON
STEPHENS, INC.,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35300
D.C. Nos.
2:07-cv-01593-JLR
2:07-cv-01549-JLR

1486

SIMMONDS v. CREDIT SUISSE SECURITIES

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

GOLDMAN SACHS GROUP INC.,
Defendant,

and

BANK OF AMERICA CORPORATION, a
Delaware corporation, successor in
interest to BancBoston Robertson
Stephens, Inc.; MAXYGEN INC.,
Nominal Defendant, a Delaware
corporation; GOLDMAN SACHS &
CO.; ROBERTSON STEPHENS, INC.,
Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35301

No. 09-35374

D.C. Nos.

2:07-cv-01594-JLR

2:07-cv-01549-JLR

SIMMONDS V. CREDIT SUISSE SECURITIES

1487

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

CREDIT SUISSE GROUP, a global
bank headquartered in Zurich,
Switzerland FKA Credit Suisse
First Boston Corporation; BANK OF
AMERICA CORPORATION, a Delaware
corporation, successor in interest
to BancBoston Robertson
Stephens, Inc.; SILICON IMAGE,
INC., Nominal Defendant, a
Delaware corporation; ROBERTSON
STEPHENS, INC.,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35302

D.C. No.
2:07-cv-01575-JLR

1488

SIMMONDS v. CREDIT SUISSE SECURITIES

VANESSA SIMMONDS,
Plaintiff-Appellant,
v.
GOLDMAN SACHS GROUP INC., a
Delaware corporation,
Defendant,
and
STREET.COM INC.; GOLDMAN SACHS
& CO.; J.P. MORGAN SECURITIES
INC.,
Defendants-Appellees.
In Re: SECTION 16(b) LITIGATION

No. 09-35303
No. 09-35391
D.C. Nos.
2:07-cv-01595-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,
v.
BANK OF AMERICA CORPORATION, a
Delaware corporation, successor in
interest to BancBoston Robertson
Stephens, Inc.; CRITICAL PATH,
INC., Nominal Defendant, a
California corporation; ROBERTSON
STEPHENS, INC.; J.P. MORGAN
SECURITIES, INC.,
Defendants-Appellees.
In Re: SECTION 16(b) LITIGATION

No. 09-35306
D.C. No.
2:07-cv-01582-JLR

SIMMONDS v. CREDIT SUISSE SECURITIES

1489

VANESSA SIMMONDS,
Plaintiff-Appellant,
v.

BANK OF AMERICA CORPORATION, a
Delaware corporation, successor in
interest to BancBoston Robertson
Stephens, Inc.; CONCUR
TECHNOLOGIES, INC., a Delaware
corporation; ROBERTSON STEPHENS,
INC.; J.P. MORGAN SECURITIES, INC.,
Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35307
D.C. Nos.
2:07-cv-01585-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,
v.

CREDIT SUISSE GROUP, a global
bank headquartered in Zurich,
Switzerland; SOURCEFORGE, INC.,
Nominal Defendant, a Delaware
corporation, FKA VA Linux
Systems, Inc.; LEHMAN BROTHERS,
INC.,
Defendants-Appellees,

JAMES W. GIDDENS, Trustee for the
Liquidation of the Business of
Lehman Brothers, Inc.,
Trustee-Appellee.

In Re: SECTION 16(b) LITIGATION

No. 09-35308
D.C. No.
2:07-cv-01583-JLR

1490

SIMMONDS v. CREDIT SUISSE SECURITIES

VANESSA SIMMONDS,
Plaintiff-Appellant,
v.
GOLDMAN SACHS & CO.; J.P.
MORGAN SECURITIES, INC.; RED
HAT, INC., a Delaware corporation,
Defendants-Appellees.
In Re: SECTION 16(b) LITIGATION

No. 09-35309
No. 09-35369
D.C. Nos.
2:07-cv-01587-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,
v.
CREDIT SUISSE GROUP, a global
bank headquartered in Zurich,
Switzerland; SELECTICA, INC.,
Nominal Defendant, a Delaware
corporation,
Defendants-Appellees.
In Re: SECTION 16(b) LITIGATION

No. 09-35310
No. 09-35368
D.C. No.
2:07-cv-01584-JLR

VANESSA SIMMONDS
Plaintiff-Appellant,
v.
CREDIT SUISSE GROUP SECURITIES
(USA) LLC, a Delaware limited
liability company; BANK OF
AMERICA CORPORATION, a Delaware
corporation; ROBERTSON STEPHENS,
INC., a Massachusetts corporation,
Defendants-Appellees,
and
INTERWOVEN, INC.,
Defendant.
In Re: SECTION 16(b) LITIGATION

No. 09-35312
D.C. Nos.
2:07-cv-01579-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS
Plaintiff-Appellant,
v.
MORGAN STANLEY & CO.,
INCORPORATED; J.P. MORGAN
SECURITIES, INC.; VIGNETTE
CORPORATION, a Delaware
corporation,
Defendants-Appellees.
In Re: SECTION 16(b) LITIGATION

No. 09-35313
No. 09-35370
D.C. Nos.
2:07-cv-01588-JLR
2:07-cv-01549-JLR

1492

SIMMONDS v. CREDIT SUISSE SECURITIES

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

MORGAN STANLEY & CO.,
INCORPORATED; J.P. MORGAN
SECURITIES, INC.; LEHMAN
BROTHERS, INC.; SYCAMORE
NETWORKS, INC., a Delaware
corporation,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35314
No. 09-35371
D.C. Nos.
2:07-cv-01589-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

CREDIT SUISSE GROUP SECURITIES
(USA) LLC, a Delaware limited
liability company; BANK OF
AMERICA CORPORATION, a Delaware
corporation; ROBERTSON STEPHENS,
INC.; J.P. MORGAN SECURITIES INC.,
a Delaware corporation,

Defendants-Appellees,

and

OPENWAVE SYSTEMS, INC., a
California corporation,

Defendant.

In Re: SECTION 16(b) LITIGATION

No. 09-35315
D.C. No.
2:07-cv-01580-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

CREDIT SUISSE GROUP SECURITIES
(USA) LLC, a Delaware limited
liability company; BANK OF
AMERICA CORPORATION, a Delaware
corporation; ROBERTSON STEPHENS,
INC.,

Defendants-Appellees,

and

INFORMATICA CORPORATION, a
Delaware corporation,
Defendant.

In Re: SECTION 16(b) LITIGATION

No. 09-35316
D.C. Nos.
2:07-cv-01581-JLR
2:07-cv-01549-JLR

1494

SIMMONDS v. CREDIT SUISSE SECURITIES

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

CREDIT SUISSE GROUP SECURITIES
(USA) LLC, a Delaware limited
liability company; BANK OF
AMERICA CORPORATION, a Delaware
corporation; ROBERTSON STEPHENS,
INC., a Massachusetts corporation;
MERRILL LYNCH, PIERCE, FENNER &
SMITH INCORPORATED, a Delaware
corporation; CITIGROUP GLOBAL
MARKETS INC., a New York
corporation,

Defendants-Appellees,

and

INTERSIL CORPORATION, a Delaware
corporation,

Defendant.

In Re: SECTION 16(b) LITIGATION

No. 09-35317

No. 09-35365

D.C. Nos.

2:07-cv-01572-JLR

2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

GOLDMAN SACHS GROUP INC.,
Defendant,

and

BANK OF AMERICA CORPORATION, a
Delaware corporation, successor in
interest to Fleetboston Robertson
Stephens, Inc.; SONUS NETWORKS
INC., a Delaware corporation;
GOLDMAN SACHS & CO.; LEHMAN
BROTHERS INC.; ROBERTSON
STEPHENS, INC.; J.P. MORGAN
SECURITIES INC.,

Defendants-Appellees,

JAMES W. GIDDENS,
TRUSTEE FOR THE
LIQUIDATION OF THE BUSINESS OF
LEHMAN BROTHERS INC.,
Trustee-Appellee.

In Re: SECTION 16(b) LITIGATION

No. 09-35318

No. 09-35393

D.C. Nos.

2:07-cv-01597-JLR

2:07-cv-01549-JLR

1496

SIMMONDS v. CREDIT SUISSE SECURITIES

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

MORGAN STANLEY & CO.,
INCORPORATED; J.P. MORGAN
SECURITIES, INC., a Delaware
corporation; LEHMAN BROTHERS,
INC., a Delaware corporation,
Defendants-Appellees,

and

AVICI SYSTEMS, INC., a Delaware
corporation,
Defendant.

In Re: SECTION 16(b) LITIGATION

No. 09-35320

No. 09-35366

D.C. No.
2:07-cv-01573-JLR

SIMMONDS v. CREDIT SUISSE SECURITIES

1497

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

BANK OF AMERICA CORPORATION, a
Delaware corporation, successor in
interest to BancBoston Robertson
Stephens, Inc.; PRICELINE.COM INC.,
a Delaware corporation; MORGAN
STANLEY & CO. INCORPORATED;
MERRILL LYNCH PIERCE FENNER &
SMITH INCORPORATED; ROBERTSON
STEPHENS, INC.,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35321

No. 09-35397

D.C. Nos.

2:07-cv-01598-JLR

2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

GOLDMAN SACHS & CO.; LEHMAN
BROTHERS, INC.; J.P. MORGAN
SECURITIES, INC.; MARVELL
TECHNOLOGY GROUP, LTD., a
Bermuda corporation,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35322

D.C. Nos.

2:07-cv-01632-JLR

2:07-cv-01549-JLR

1498

SIMMONDS v. CREDIT SUISSE SECURITIES

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

MORGAN STANLEY & CO.,
INCORPORATED; MERRILL LYNCH
PIERCE FENNER & SMITH
INCORPORATED; PEROT SYSTEMS
CORPORATION, a Delaware
corporation,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35323

No. 09-35404

D.C. Nos.

2:07-cv-01631-JLR

2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

CREDIT SUISSE GROUP, a global
bank headquartered in Zurich,
Switzerland; DEUTSCHE BANK AG,
a global bank headquartered in
Frankfurt, Germany; LEHMAN
BROTHERS HOLDINGS, INC., a
Delaware corporation; AIRSPAN
NETWORKS, INC., Nominal
Defendant, a Washington
corporation; DEUTSCHE BANK
SECURITIES, INC.; LEHMAN
BROTHERS, INC.,

Defendants-Appellees,

and

JAMES W. GIDDENS, Trustee for the
Liquidation of the Business of
Lehman Brothers, Inc.,

Trustee-Appellee.

In Re: SECTION 16(b) LITIGATION

No. 09-35324

D.C. No.
2:07-cv-01638-JLR

1500

SIMMONDS v. CREDIT SUISSE SECURITIES

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

GOLDMAN SACHS & CO.; BANK OF
AMERICA CORPORATION, a Delaware
corporation, successor in interest
BancBoston Robertson Stephens
Inc.; ROBERTSON STEPHENS, INC.;
INSWEB CORPORATION, a Delaware
corporation,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35325
D.C. Nos.
2:07-cv-01630-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

MORGAN STANLEY & CO.,
INCORPORATED; DEUTSCHE BANK
SECURITIES, INC.; ASIAINFO
HOLDINGS, INC., a Delaware
corporation,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35326
No. 09-35405
D.C. Nos.
2:07-cv-01633-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

BANK OF AMERICA CORPORATION, a
Delaware corporation, successor in
interest to BancBoston Robertson
Stephens, Inc. and FleetBoston
Robertson Stephens, Inc.;
ROBERTSON STEPHENS, INC.; J.P.
MORGAN SECURITIES, INC.; KEYNOTE
SYSTEMS, INC., a Delaware
corporation,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35328
D.C. Nos.
2:07-cv-01634-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

BANK OF AMERICA CORPORATION, a
Delaware corporation, successor in
interest to BancBoston Robertson
Stephens, Inc.; ROBERTSON
STEPHENS, INC.; J.P. MORGAN
SECURITIES INC.; DIGIMARC
CORPORATION, Nominal Defendant,
a Delaware corporation,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35327
No. 09-35382
D.C. No.
2:07-cv-01652-JLR

1502

SIMMONDS v. CREDIT SUISSE SECURITIES

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

GOLDMAN SACHS & CO.; BEAR
STEARNS & CO., INC.; DEUTSCHE
BANK SECURITIES, INC.; TIBCO
SOFTWARE, INC., a Delaware
corporation,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35331
D.C. Nos.
2:07-cv-01635-JLR
2:07-cv-11549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

MARTHA STEWART LIVING
OMNIMEDIA INC., a Delaware
corporation; MORGAN STANLEY &
CO. INCORPORATED; MERRILL LYNCH
PIERCE FENNER & SMITH
INCORPORATED,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35333
No. 09-35380
D.C. Nos.
2:07-cv-01605-JLR
2:07-cv-01549-JLR

SIMMONDS v. CREDIT SUISSE SECURITIES

1503

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

CREDIT SUISSE GROUP, a global
bank headquartered in Zurich,
Switzerland; AUDIBLE INC., a
Delaware corporation; J.P.
MORGAN SECURITIES INC.,
Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35334
No. 09-35383
D.C. Nos.
2:07-cv-01623-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

GOLDMAN SACHS & CO., a New
York limited partnership; MERRILL
LYNCH PIERCE FENNER & SMITH
INCORPORATED, a Delaware
corporation; BANK OF AMERICA
CORPORATION, a Delaware
corporation, ROBERTSON STEPHENS,
INC., a Massachusetts corporation,
Defendants-Appellees,

and

SABA SOFTWARE, INC., a Delaware
corporation,

Defendant.

In Re: SECTION 16(b) LITIGATION

No. 09-35335
No. 09-35377
D.C. Nos.
2:07-cv-01637-JLR
2:07-cv-01549-JLR

1504

SIMMONDS v. CREDIT SUISSE SECURITIES

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

MORGAN STANLEY & CO.
INCORPORATED, a Delaware
corporation; DEUTSCHE BANK
SECURITIES INC., a Delaware
corporation; CITIGROUP GLOBAL
MARKETS, INC., a New York
corporation,
Defendants-Appellees,

and

TRANSMETA CORPORATION, a
Delaware corporation,
Defendant.

In Re: SECTION 16(b) LITIGATION

No. 09-35337
D.C. Nos.
2:07-cv-01636-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

CAPSTONE TURBINE CORPORATION, a
Delaware corporation; GOLDMAN
SACHS & Co.; MERRILL LYNCH
PIERCE FENNER & SMITH
INCORPORATED; MORGAN STANLEY &
CO. INCORPORATED,
Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35339
No. 09-35395
D.C. Nos.
2:07-cv-01624-JLR
2:07-cv-01549-JLR

SIMMONDS v. CREDIT SUISSE SECURITIES

1505

VANESSA SIMMONDS,
Plaintiff-Appellant,
v.
MORGAN STANLEY & CO.
INCORPORATED; BROCADE
COMMUNICATIONS SYSTEMS INC., a
Delaware corporation,
Defendants-Appellees.
In Re: SECTION 16(b) LITIGATION

No. 09-35344
D.C. Nos.
2:07-cv-01626-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,
v.
BANK OF AMERICA CORPORATION, a
Delaware corporation, successor in
interest to Robertson Stephens,
Inc.; J.P. MORGAN SECURITIES INC.;
ROBERTSON STEPHENS, INC.; OPLINK
COMMUNICATIONS, INC., a Delaware
corporation,
Defendants-Appellees.
In Re: SECTION 16(b) LITIGATION

No. 09-35345
No. 09-35399
D.C. Nos.
2:07-cv-01667-JLR
2:07-cv-01549-JLR

1506

SIMMONDS v. CREDIT SUISSE SECURITIES

VANESSA SIMMONDS,
Plaintiff-Appellant,
v.

BANK OF AMERICA CORPORATION, a
Delaware corporation, successor in
interest to BancBoston Robertson
Stephens, Inc.; ROBERTSON
STEPHENS, INC.; J.P. MORGAN
SECURITIES INC.; NAVASITE, INC., a
Delaware corporation,
Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35346
No. 09-35398

D.C. No.
2:07-cv-01666-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,
v.

MORGAN STANLEY & CO.
INCORPORATED, a Delaware
corporation; DEUTSCHE BANK
SECURITIES, INC., a Delaware
corporation; ASPECT MEDICAL
SYSTEMS, INC., Nominal Defendant,
a Delaware corporation,
Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35347
No. 09-35394

D.C. No.
2:07-cv-01655-JLR

SIMMONDS v. CREDIT SUISSE SECURITIES

1507

VANESSA SIMMONDS,
Plaintiff-Appellant,
v.

BANK OF AMERICA CORPORATION, a
Delaware corporation, successor in
interest to BancBoston Robertson
Stephens, Inc.; ROBERTSON
STEPHENS, INC.; BEAR STEARNS &
CO., INC.; PACKETEER, INC.,
Nominal Defendant, a Delaware
corporation,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35348

No. 09-35387

D.C. No.
2:07-cv-01654-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,
v.

BANK OF AMERICA CORPORATION, a
Delaware corporation, successor in
interest to FleetBoston Robertson
Stephens, Inc.; ROBERTSON
STEPHENS, INC.; OMNIVISION
TECHNOLOGIES, INC., a Delaware
corporation,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35349

D.C. Nos.
2:07-cv-01668-JLR
2:07-cv-01549-JLR

1508

SIMMONDS v. CREDIT SUISSE SECURITIES

VANESSA SIMMONDS,
Plaintiff-Appellant,
v.
CREDIT SUISSE SECURITIES (USA),
LLC; OCCAM NETWORKS, INC., a
Delaware corporation, FKA
Accelerated Networks, Inc.,
Defendants-Appellees.
In Re: SECTION 16(b) LITIGATION

No. 09-35350
No. 09-35400
D.C. Nos.
2:07-cv-01669-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,
v.
J.P. MORGAN SECURITIES INC.; BEAR
STEARNS & CO., INC.; BANK OF
AMERICA CORPORATION, a Delaware
corporation, successor in interest
to BancBoston Robertson
Stephens, Inc.; ROBERTSON
STEPHENS, INC.; IMMERSION
CORPORATION, a Delaware
corporation,
Defendants-Appellees.
In Re: SECTION 16(b) LITIGATION

No. 09-35351
D.C. Nos.
2:07-cv-01670-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,
v.
MORGAN STANLEY & CO.
INCORPORATED, a Delaware
corporation; CREDIT SUISSE
SECURITIES (USA), LLC; J.P.
MORGAN SECURITIES, INC.; INTERNAP
NETWORK SERVICES CORPORATION,
Nominal Defendant, a Delaware
corporation,
Defendants-Appellees.
In Re: SECTION 16(b) LITIGATION

No. 09-35352
No. 09-35384
D.C. No.
2:07-cv-01653-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,
v.
MICROTUNE INC., a Delaware
corporation; GOLDMAN SACHS &
CO.; J.P. MORGAN SECURITIES INC.,
Defendants-Appellees.
In Re: SECTION 16(b) LITIGATION

No. 09-35355
D.C. No.
2:07-cv-01627-JLR

1510

SIMMONDS v. CREDIT SUISSE SECURITIES

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

BANK OF AMERICA CORPORATION, a
Delaware corporation, successor in
interest to BancBoston Robertson
Stephens, Inc.; MORGAN STANLEY
& CO. INCORPORATED; ROBERTSON
STEPHENS, INC.; EXTREME NETWORKS
INC.,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35357
D.C. Nos.
2:07-cv-01628-JLR
2:07-cv-01549-JLR

VANESSA SIMMONDS,
Plaintiff-Appellant,

v.

BANK OF AMERICA CORPORATION, a
Delaware corporation, successor in
interest to Robertson Stephens,
Inc.; J.P. MORGAN SECURITIES INC.;
ROBERTSON STEPHENS, INC.; COSINE
COMMUNICATIONS INC., a Delaware
corporation; GOLDMAN SACHS &
Co.,

Defendants-Appellees.

In Re: SECTION 16(b) LITIGATION

No. 09-35358
No. 09-35390
D.C. Nos.
2:07-cv-01629-JLR
2:07-cv-01549-JLR

SIMMONDS v. CREDIT SUISSE SECURITIES

1511

VANESSA SIMMONDS,
Plaintiff-Appellee,

v.

CREDIT SUISSE SECURITIES (USA)
LLC; CREDIT SUISSE SECURITIES
(USA) LLC; J.P. MORGAN
SECURITIES INC.; BANK OF AMERICA
CORPORATION, a Delaware
corporation, successor in interest
to Fleetboston Robertson Stephens,
Inc.; ROBERTSON STEPHENS, INC.,
Defendants-Appellants.

In Re: SECTION 16(b) LITIGATION

No. 09-35363
D.C. Nos.
2:07-cv-01549-JLR
2:07-cv-01549-JLR

ORDER

Filed December 2, 2010
Amended January 18, 2011
Second Amendment January 25, 2011

Before: Sidney R. Thomas and Milan D. Smith, Jr.,
Circuit Judges, and Michael R. Hogan, District Judge.*

ORDER

The Opinion filed on December 2, 2010 and the Order and Amended Opinion filed on January 18, 2011 are amended to list the case numbers of the cross-appeals, as shown in the captions listed above.

*The Honorable Michael R. Hogan, United States District Judge for the District of Oregon, sitting by designation.