

## SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

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FORM 8-K

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d) OF THE

SECURITIES EXCHANGE ACT OF 1934

DATE OF REPORT (DATE OF EARLIEST EVENT REPORTED): AUGUST 14, 1996

NETWORK APPLIANCE, INC.  
 (EXACT NAME OF REGISTRANT AS SPECIFIED IN CHARTER)

California (State or other jurisdiction of incorporation)	0-27130 (Commission File Number)	77-0307520 (IRS Employer Identification No.)
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319 North Bernardo Avenue, Mountain View, California (Address of principal executive offices)	94301 (Zip Code)
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Company's telephone number, including area code: (415) 428-5100

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(Former name or former address, if changed since last report.)

## ITEM 5. OTHER EVENTS.

## Settlement of Whipsaw Litigation

On August 14, 1996, the Registrant agreed to settle an intellectual property lawsuit brought against it by the Whipsaw Group. In connection with the settlement, the Registrant recorded a pre-tax charge of Four Million Three Hundred Thousand dollars (\$4,300,000) in the quarter that ended July 26, 1996. The \$4.3 million charge consists of a Three Million Five Hundred Thousand dollar (\$3,500,000) payment to the plaintiffs and Eight Hundred Thousand dollars (\$800,000) in legal fees. The total settlement with the plaintiffs consists of a single cash payment and releases the Company from all liabilities.

## Resignation of Chief Financial Officer

On August 14, 1996, Mr. Michael McCloskey, Chief Financial Officer, Vice President, Finance and Operations, and Secretary, announced his intention to leave the Registrant. Mr. McCloskey will continue to serve in these roles for several weeks while the Registrant conducts a search for his successor.

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## ITEM 7. FINANCIAL STATEMENTS, PRO FORMA FINANCIAL INFORMATION AND EXHIBITS.

- (a) Financial Statements of Businesses Acquired. Not applicable.
- (b) Pro Forma Financial Information. Not applicable.
- (c) Exhibits:

Exhibit  
Number

- 20.1 Press Release of the Registrant, dated August 14, 1996, regarding the settlement of the Whipsaw litigation.
- 20.2 Press Release of the Registrant, dated August 14, 1996, regarding the resignation of Mr. Michael McCloskey.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

NETWORK APPLIANCE, INC.

Dated: September 9, 1996

By: /s/ Daniel J. Warmenhoven

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Daniel J. Warmenhoven  
President and Chief Executive Officer

EXHIBIT INDEX

DESCRIPTION OF DOCUMENT

Exhibit  
Number

- 20.1 Press Release of the Registrant, dated August 14, 1996, regarding the settlement of the Whipsaw litigation.
- 20.2 Press Release of the Registrant, dated August 14, 1996, regarding the resignation of Mr. Michael McCloskey.

Press Release, dated August 14, 1996, regarding the settlement of the Whipsaw litigation.

NETWORK APPLIANCE SETTLES WHIPSAW LAWSUIT

MOUNTAIN VIEW, CA - AUGUST 14, 1996 - Network Appliance, Inc. (NASDAQ:NTAP) today announced that it has settled a two-year-old, intellectual property lawsuit brought against it by The Whipsaw Group. In connection with the settlement, Network Appliance recorded a pre-tax charge of \$4.3 million in the quarter that ended July 26, 1996.

The \$4.3 million charge consists of a \$3.5 million payment to the plaintiffs and \$800,000 in legal fees. The total settlement with the plaintiffs consists of a single cash payment and releases the Company from all liabilities. The Company has no future obligations to the plaintiffs.

The lawsuit stemmed from claims that one of the founders of Network Appliance misappropriated confidential information prior to founding the Company in April 1992, from which the Company allegedly benefited. Network Appliance denies any wrongdoing on its part or on the part of the founder, who left the Company in March 1995. The case is described further in various Company documents and financial filings, including its S-1, 10K and prospectus.

Commenting on the settlement, Network Appliance President and Chief Executive Officer Dan Warmenhoven said, "As confident as we are in the merits of our defenses in this case, we chose not to endure the distractions and costs involved in lengthy legal proceedings. It is in the best interests of our shareholders to put this case behind us and focus all our attention on productive management of our rapid growth."

Network Appliance, also known as NetApp, supplies high-performance network data access devices that provide fast, simple, reliable and cost-effective file service for data-intensive network environments. Combining specialized, proprietary software and standards-compliant hardware, the Company pioneered the concept of the "network appliance," an extension of the industry trend towards dedicated, specialized devices which perform a single networking function, similar to the adoption of the router for network communications management. Customers include leading organizations in the on-line services, financial services, manufacturing and telecommunications industries, as well as companies that design hardware and software. Products are available through the Company's direct sales force and resellers worldwide.

Press Release, dated August 14, 1996, regarding the resignation of Mr. Michael McCloskey.

NETWORK APPLIANCE CFO LEAVES TO JOIN NEW COMPANY

MOUNTAIN VIEW, CA - AUGUST 14, 1996 - Daniel J. Warmenhoven, president and chief executive officer of Network Appliance, Inc. (NASDAQ:NTAP) said today that Michael McCloskey, chief financial officer and vice president of operations, has decided to leave the Company to pursue another career opportunity. McCloskey will continue to serve in these roles for several weeks while the Company conducts a search for his successor.

Network Appliance, also known as NetApp, supplies high-performance network data access devices that provide fast, simple, reliable and cost-effective file service for data-intensive network environments. Combining specialized, proprietary software and standards-compliant hardware, the Company pioneered the concept of the "network appliance," an extension of the industry trend towards dedicated, specialized devices which perform a single networking function, similar to the adoption of the router for network communications management. Customers include leading organizations in the on-line services, financial services, manufacturing and telecommunications industries, as well as companies that design hardware and software. Products are available through the Company's direct sales force and resellers worldwide. For more information, visit the NetApp Website on the Internet at <http://www.netapp.com>.