

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
Northern District of California

JUNIPER NETWORKS, INC.,

Plaintiffs,

v.

ALTITUDE CAPITAL PARTNERS, L.P. and
SECURITY RESEARCH HOLDINGS, LLC,

Defendants.

No. C 09-03449 JSW (MEJ)

**ORDER RE DISCOVERY DISPUTE
(DKT. ##148, 154)**

The Court is in receipt of the parties' joint letter filed on November 11, 2010. (Dkt. ##148, 154.) The dispute concerns Plaintiff Juniper Network, Inc.'s contention that Defendants Altitude Capital Partners, L.P. and Security Research Holdings, LLC ("Defendants") have withheld or redacted certain documents based on improper claims of privilege. Having reviewed the parties' arguments, the Court notes that Juniper has objected to 2,550 of Defendants' 2,600 privilege log entries. For several of these entries, Defendants invoke privileges on behalf of third parties, which, upon preliminary review, appear improper.¹ However, given that Defendants' motion to dismiss is scheduled to be heard before Judge White on December 10, 2010, and any *in camera* review of the nearly 2,600 documents would take a considerable amount of the Court's time, the undersigned finds that it is impracticable to resolve this dispute within the available time, let alone the time required for production, if necessary, and review of any withheld documents prior to the hearing. Accordingly, the Court DENIES Juniper's request WITHOUT PREJUDICE. If Juniper is compelled to resolve this dispute prior to the motion to dismiss hearing, it shall file a continuance

¹Defendants argue that they have a common legal interest with the third party, but the caselaw they cite does not appear to support their argument, and Juniper states that the third party does not intend to seek a protective order and has not otherwise intervened to invoke a privilege.

UNITED STATES DISTRICT COURT
For the Northern District of California

1 request before Judge White. If Judge White grants Juniper's request, the parties are ORDERED to
2 meet and confer pursuant to the undersigned's for the purpose of narrowing their dispute. If
3 Defendants contend that third party communications are privileged, they must make a stronger
4 showing than the present letter, including whether the third party seeks to invoke the privilege.

5 **IT IS SO ORDERED.**

6
7 Dated: September 17, 2010

8 
9 _____
10 MARIA-ELENA JAMES
11 Chief United States Magistrate Judge
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28