

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JUNIPER NETWORKS, INC.,

Plaintiff,

No. C 09-03449 JSW

v.

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

Defendants.

**ORDER REGARDING
PLAINTIFF’S ADMINISTRATIVE
REQUEST TO CONTINUE
HEARING ON MOTION TO
DISMISS PENDING DISCOVERY**

_____ /

Now before the Court is the administrative request submitted by Plaintiff Juniper Networks, Inc. (“Juniper”) to continue the adjudication of the motion to dismiss filed by Defendants Altitude Capital Partner, L.P. (“Altitude”) and Security Research Holdings LLC (“SRH”) (collectively, “Defendants”). Juniper contends that the outstanding discovery of nearly 2,600 documents which are the subject of an unresolved discovery dispute may contain relevant information to bolster its opposition to the pending motion to dismiss. In the opposition to Juniper’s administrative motion to continue the hearing on the motion to dismiss, Defendants’ counsel contends that nothing in the outstanding discovery that would “add to the information that is relevant to the issues pending in the motion to dismiss.” (Opp. Br. at 5.)

In response to the pending motion to dismiss, Juniper contends that there was a definite and concrete dispute between Juniper and SRH at the time Juniper initiated this declaratory judgment action. Should Defendants’ counsel submit a declaration stating under penalty of

1 perjury, after review of the outstanding withheld documents, that the subject documents do not
2 contribute any additional information regarding whether there was a definite and concrete
3 dispute between Juniper and SRH at the time Juniper initiated this declaratory judgment action,
4 the Court will deny the administrative motion to continue adjudication on the motion to dismiss.
5 If counsel does not submit such an unequivocal, unconditional declaration by Monday,
6 December 6, 2011, the Court will grant Juniper's administrative request to continue and allow
7 the parties to resolve the discovery dispute prior to adjudicating Defendants' pending motion to
8 dismiss.

9 Regardless, pursuant to Civil Local Rule 7-1(b), the Court finds that the motion to
10 dismiss which has been noticed for hearing on Friday, December 10, 2010 at 9:00 a.m., as
11 briefed is appropriate for decision without oral argument. Accordingly, the hearing date is
12 **HEREBY VACATED**. The motion will be taken under submission and decided on the papers
13 or, if continuation of the adjudication date is required, the Court shall require supplemental
14 briefing on the limited issue of whether there was a definite and concrete dispute between
15 Juniper and SRH at the time Juniper initiated this declaratory judgment action and shall set a
16 hearing date by further order, if necessary.

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IT IS SO ORDERED.

Dated: November 30, 2010



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE