EXHIBIT 11

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NETWORK GATEWAY SOLUTIONS, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 09-667 (JJF)
	)	
ADTRAN, INC.; AUDIOCODES LTD.; AUDIOCODES, INC.; AVAYA, INC.; CISCO SYSTEMS, INC.; GENBAND, INC.; JUNIPER NETWORKS, INC.; ALCATEL-LUCENT; ALCATEL-LUCENT USA, INC.; MEDIA5 CORPORATION; MEDIATRIX TELECOM, INC.; METASWITCH, INC.; MITEL NETWORKS CORPORATION; MITEL NETWORKS, INC.; MULTI-TECH SYSTEMS, INC.; PATTON ELECTRONICS CO.; QUINTUM TECHNOLOGIES, LLC; SIEMENS AG; SIEMENS ENTERPRISE COMMUNICATIONS, INC.; SONUS NETWORKS, INC.,; AND ZHONE TECHNOLOGIES, INC.,	)	
	)	
Defendants.	)	

RULE 16 SCHEDULING ORDER

The parties[1] having satisfied their obligations under Fed. R. Civ. P. 26(f),

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties will exchange by **February 1, 2010** the information required by Fed. R. Civ. P. 26 (a) (1) and D. Del. LR 16.1.

2. **Infringement Contentions**. Plaintiff will provide a "Disclosure of Asserted Claims and Preliminary Infringement Contentions" by **March 1, 2010**. Separately for each Defendant (i.e.,

[1] This includes only Plaintiff and the Defendants that have been served.

each "opposing party"), the "Disclosure of Asserted Claims and Preliminary Infringement Contentions" shall contain the following information:

a. Each claim of the patent in suit that is allegedly infringed by each opposing party;

b. Separately for each asserted claim, each accused apparatus, product, device, process, method, act, or other instrumentality ("Accused Instrumentality") of each opposing party of which the party is aware. This identification shall be as specific as possible. Each product, device, and apparatus must be identified by name or model number, if known. Each method or process must be identified by name, if known, or by any product, device, or apparatus which, when used, allegedly results in the practice of the claimed method or process;

c. A chart identifying specifically where each element of each asserted claim is found within each Accused Instrumentality, including for each element that such party contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in the Accused Instrumentality that performs the claimed function;

d. Whether each element of each asserted claim is claimed to be literally present or present under the doctrine of equivalents in the Accused Instrumentality;

e. For any patent that claims priority to an earlier application, the priority date to which each asserted claim allegedly is entitled; and

f. If Plaintiff wishes to preserve the right to rely, for any purpose, on the assertion that its own apparatus, product, device, process, method, act, or other instrumentality practices the claimed invention, Plaintiff must identify, separately for each asserted claim, each such apparatus, product, device, process, method, act, or other instrumentality that incorporates or reflects that particular claim.

For any element of a Paragraph 2(c) chart that Plaintiff, in good faith, is unable to specifically identify with respect to an Accused Instrumentality on March 1, 2010 due to a lack of reasonably available public information about an Accused Instrumentality, Plaintiff will provide a supplemental disclosure containing such identification and complying with Paragraph 2 within thirty (30) days after service of Defendants' document production pursuant to Paragraph 5 with respect to that Accused Instrumentality. Plaintiff reserves the right to request an inspection of

any Accused Instrumentality identified in its Amended Complaint and not in its Original Complaint if it in good faith determines, following receipt of Defendants' document production pursuant to Paragraph 5, it needs an inspection prior to supplementation with respect to such Accused Instrumentality. Plaintiff will make any such request within thirty (30) days of service of the applicable Defendant's document production pursuant to Paragraph 5 with respect to such Accused Instrumentality. If the parties agree to such inspection or the Court orders such inspection, Plaintiff's supplemental disclosure with respect to such Accused Instrumentality will be due thirty (30) days after the applicable Defendant makes such Accused Instrumentality available for inspection.

3. **Document Production Accompanying Disclosure**. With the "Disclosure of Asserted Claims and Preliminary Infringement Contentions," Plaintiff must produce to each opposing party or make available for inspection and copying:

a. Documents (e.g., contracts, purchase orders, invoices, advertisements, marketing materials, offer letters, beta site testing agreements, and third party or joint development agreements) sufficient to evidence each discussion with, disclosure to, or other manner of providing to a third party, or sale of or offer to sell, the claimed invention prior to the date of application for the patent in suit. A party's production of a document as required herein shall not constitute an admission that such document evidences or is prior art under 35 U.S.C. § 102;

b. All documents evidencing the conception, reduction to practice, design, and development of each claimed invention, which were created on or before the date of application for the patent in suit or the priority date identified pursuant to Patent R. 3-1(e), whichever is earlier; and

c. A copy of the file history for the patent in suit.

Plaintiff shall separately identify by production number which documents correspond to each category.

4. **Invalidity Contentions**. Not later than **April 30, 2010**, Defendants shall serve on all parties their "Preliminary Invalidity Contentions" which must contain the following information:

a. The identity of each item of prior art that allegedly anticipates each asserted claim or renders it obvious. Each prior art patent shall be identified by its number, country of origin, and date of issue. Each prior art publication must be identified by its title, date of publication, and where feasible, author and publisher. Prior art under 35 U.S.C. § 102(b) shall be identified by specifying the item offered for sale or publicly used or known, the date the offer or use took place or the information became known, and the identity of the person or entity which made the use or which made and received the offer, or the person or entity which made the information known or to whom it was made known. Prior art under 35 U.S.C. § 102(f) shall be identified by providing the name of the person(s) from whom and the circumstances under which the invention or any part of it was derived. Prior art under 35 U.S.C. § 102(g) shall be identified by providing the identities of the person(s) or entities involved in and the circumstances surrounding the making of the invention before the patent applicant(s);

b. Whether each item of prior art anticipates each asserted claim or renders it obvious. If a combination of items of prior art and/or the knowledge of ordinary skill in the art makes a claim obvious, each such combination, and the basis for combining such items, must be identified;

c. A chart identifying where specifically in each alleged item of prior art each element of each asserted claim is found, including for each element that such party contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in each item of prior art that performs the claimed function; and

d. Any grounds of invalidity based on indefiniteness under 35 U.S.C. § 112(2) or enablement or written description under 35 U.S.C. § 112(1) of any of the asserted claims.

5. **Document Production Accompanying Preliminary Invalidity Contentions**. With the "Preliminary Invalidity Contentions," the party opposing a claim of patent infringement must produce or make available for inspection and copying:

a. Source code, specifications, schematics, flow charts, artwork, formulas, or other documentation sufficient to show the operation of any aspects or elements of an Accused Instrumentality identified by the patent claimant in its Paragraph 2(c) chart; and

b. A copy of each item of prior art identified pursuant to Paragraph 4(a) which does not appear in the file history of the patent(s) at issue. To the extent any such item is not in English, an English translation of the portion(s) relied upon must be produced.

Defendants shall separately identify by production number which documents correspond to each category. All productions under Paragraphs 3 and 5 shall be made pursuant to the terms of a to-be-entered Protective Order, including provisions that will govern the inspection of source code to the extent any source code is requested or made available in this case. With respect to material other than source code, in the event the parties cannot agree on the content of a Protective Order before an applicable deadline for disclosing material, such material will be produced on a trial counsel only basis until a Protective Order is entered by the Court. Source code, if disclosed, will be disclosed only subject to the terms of the to-be-entered Protective Order, which the parties will negotiate in the event a party requests or determines it will disclose any source code.

6. **Joinder of other Parties.** All motions to join other parties shall be filed on or before **February 1, 2010** absent a showing of good cause.

7. **Settlement Conference.** Pursuant to 28 U.S.C. § 636, this matter is referred to Magistrate Judge Stark for the purposes of exploring the possibility of a settlement. If the parties agree that they would benefit from a settlement conference, the parties shall contact the Magistrate Judge to schedule a settlement conference so as to be completed no later than the Pretrial Conference or a date ordered by the Court.

8. **Discovery.**

(a) Exchange and completion of contention interrogatories, identification of fact witnesses and document production shall be commenced so as to be completed by **November 1, 2010**.

(b) Interrogatories: the Plaintiff shall be permitted to serve up to **25** interrogatories on each Defendant, and each Defendant shall be permitted to serve up to **25** interrogatories on the Plaintiff.

(c) Requests for admission: the Plaintiff shall be permitted to serve up to **50** requests for admission on each Defendant, and each Defendant shall be permitted to serve up to **50** requests for admission on the Plaintiff. In addition, the parties shall be permitted to serve an unlimited number of requests for admission with respect to the authentication of documents that a party reasonably anticipates using at trial.

(d) Non-expert Depositions. The total number of non-expert deposition hours taken, including third party depositions, shall not exceed 300 hours for Defendants and 350 hours for Plaintiff. No more than thirty-five (35) deposition hours can be taken of a single Defendant, which may include no more than twenty-one (21) Rule 30(b)(6) deposition hours of a single Defendant. Plaintiff or Defendants can approach the Court for additional deposition time for good cause if either believes it is necessary. Recognizing the number of Defendants, Plaintiff will not limit Defendants to seven hours for its depositions of inventors, prosecution attorneys, and Plaintiff employees or 30(b)(6) witnesses, and will not join or support any motion practice relating to any attempt to strictly limit Defendants to a seven hour deposition of a non-party; however, Plaintiff reserves the right to seek a protective order, join or support a motion or oppose a motion regarding the length of time for the deposition of any one of these deponents if questions for that deponent become overly repetitive. Defendants also will work together to limit depositions to a reasonable time. Depositions shall not commence until **November 1, 2010**, when the discovery required by paragraph 8 (a, b and c) is completed, except for depositions of inventors or prosecuting attorneys of the patent-in-suit taken only for the purposes

of claim construction, in accordance with Paragraph 16 below. Fact witness depositions shall be completed prior to **May 1, 2011**.

(e) Opening Expert Reports. Reports from retained experts required by Fed. R. Civ. P. 26 (a) (2) are to be served by the party with the burden of proof on the issue the expert is offered on the later of (i) forty-five (45) days after the issuance of the Court's Markman decision; or (ii) June 1, 2011.

(f) Rebuttal Expert Reports. Reports in rebuttal of the reports served in paragraph 8 (e) above are due within forty-five (45) days after the date set forth in paragraph 8 (e) above.

(g) Expert Depositions. Any party desiring to depose an expert witness whose report was provided pursuant to paragraphs 8 (e) or (f) shall notice and complete said deposition no later than ninety (90) days after the date set forth in paragraph 8 (e) above, unless otherwise agreed in writing by the parties or ordered by the Court.

(h) Final Contentions. Each party's "Preliminary Infringement Contentions" and "Preliminary Invalidity Contentions" shall be deemed to be that party's final contentions, except as set forth below.

a. If a party claiming patent infringement believes in good faith that (1) the Court's Claim Construction Ruling or (2) the documents produced pursuant to Paragraph 5 above so requires, that party may serve "Final Infringement Contentions" without leave of court that amend its "Preliminary Infringement Contentions" with respect to the information required by Paragraph 2 (c) or (d). Any "Final Infringement Contentions" must be served no later than 30 days after service by the Court of its Claim Construction Ruling.

b. Not later than 50 days after service by the Court of its Claim Construction Ruling, each party opposing a claim of patent infringement may serve "Final Invalidity Contentions" without leave of court that amend its "Preliminary Invalidity Contentions" with respect to the information required by Paragraph 4 above if:

(1) a party claiming patent infringement has served "Final Infringement Contentions" pursuant to subparagraph a above, or

(2) the party opposing a claim of patent infringement believes in good faith that the Court's Claim Construction Ruling so requires.

(i) Amendment to Contentions. Amendment or modification of the Preliminary or Final Infringement Contentions or the Preliminary or Final Invalidity Contentions, other than as expressly permitted above, may be made only by order of the Court, which shall be entered only upon a showing of good cause.

9. **Non-Case Dispositive Motions.**

(a) Any non-case dispositive motion, along with an Opening Brief, shall be filed with a Notice of Motion. The Notice of Motion shall indicate the date on which the movant seeks to have the motion heard. The hearing date selected shall allow time for filing of the motion, allow for briefing in accordance with the Federal and Local Rules, and shall permit all briefing to be filed no later than 12:00 noon the Friday before the motion day on which it is to be heard. Available motion dates will be posted on the Court's website at: http://www.ded.uscourts.gov/JJFmain.htm

(b) At the motion hearing, each side will be allocated ten (10) minutes to argue and respond to questions from the Court.

(c) Upon filing of the Notice of Motion, a copy of said Notice shall be sent to Chambers by email at: jjf_civil@ded.uscourts.gov

10. **Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on or before **November 15, 2011**.

11. **Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an Opening Brief by thirty (30) days after the last day for expert depositions set forth in paragraph 8(g) above. Briefing shall be pursuant to D. Del. LR 7.1.2. The parties shall follow the Court's procedures for summary judgment motions which is available on the Court's website at: http://www.ded.uscourts.gov/JJFmain.htm.

12. **Markman Hearing.** A Markman Hearing, if necessary, will be held on **November ___, 2010**.

13. **Exchange of Proposed Terms and Claim Elements for Construction.**

(a) Not later than **June 14, 2010** (i.e., not later than 45 days after service of the "Preliminary Invalidity Contentions"), each party shall simultaneously exchange a list of claim terms, phrases, or clauses which that party contends should be construed by the Court, and identify any claim element which that party contends should be governed by 35 U.S.C. § 112(6).

(b) The parties shall thereafter meet and confer for the purposes of finalizing this list, narrowing or resolving differences, and facilitating the ultimate preparation of a Joint Claim Construction and Prehearing Statement.

14. **Exchange of Preliminary Claim Constructions and Extrinsic Evidence.**

(a) Not later than **July 5, 2010** (i.e., not later than 20 days after the exchange of "Proposed Terms and Claim Elements for Construction"), the parties shall simultaneously exchange a preliminary proposed construction of each claim term, phrase, or clause which the parties collectively have identified for claim construction purposes. Each such "Preliminary Claim Construction" shall also, for each element which any party contends is governed by 35 U. S. C. § 112(6), identify the structure(s), act(s), or material(s) corresponding to that element.

(b) At the same time the parties exchange their respective "Preliminary Claim Constructions," they shall each also provide a preliminary identification of extrinsic evidence, including without limitation, dictionary definitions, citations to learned treatises and prior art, and testimony of fact and expert witnesses they contend support their respective claim constructions. The parties shall identify each such item of extrinsic evidence by production number or produce a copy of any such item not previously produced. With respect to any such witness, fact or expert, the parties shall also provide a brief description of the substance of that witness' proposed testimony.

(c) The parties shall thereafter meet and confer for the purposes of narrowing the issues and finalizing preparation of a Joint Claim Construction and Prehearing Statement.

15. **Joint Claim Construction and Prehearing Statement**. Not later than **August 3, 2010** (i.e., not later than 95 days after service of the "Preliminary Invalidity Contentions"), the parties shall complete and file a Joint Claim Construction and Prehearing Statement, which shall contain the following information:

a. The construction of those claim terms, phrases, or clauses on which the parties agree;

b. Each party's proposed construction of each disputed claim term, phrase, or clause, together with an identification of all references from the specification or prosecution history which support that construction, and an identification of any extrinsic evidence known to the party on which it intends to rely either to support its proposed construction of the claim or to oppose any other party's proposed construction of the claim, including, but not limited to, as permitted by law, dictionary definitions, citations to learned treatises and prior art, and testimony of fact and expert witnesses;

c. The anticipated length of time necessary for the Claim Construction Hearing;

d. Whether any party proposes to call one or more witnesses, including experts, at the Claim Construction Hearing, the identity of each such witness, and for each expert, a summary of each opinion to be offered in sufficient detail to permit a meaningful deposition of that expert; and

e. A list of any other issues which might appropriately be taken up at a prehearing conference prior to the Claim Construction Hearing, and proposed dates, if not previously set, for any such prehearing conference.

16. **Completion of Claim Construction Discovery**. Not later than **September 2, 2010** (i.e., not later than 30 days after service and filing of the Joint Claim Construction and Prehearing Statement), the parties shall complete all discovery relating to claim construction, including any depositions with respect to claim construction of any inventor, prosecutor, or expert identified in the Joint Claim Construction and Prehearing Statement.

17. **Claim Construction Briefing**. The parties shall jointly exchange opening claim construction briefs forty-nine (49) days before the Markman hearing. Opposition briefs shall be filed twenty-one (21) days prior to the hearing. No party may submit a reply brief. The Court, after reviewing the briefing, will allocate time to the parties for the hearing.

18. **Separation of Parties or Groups of Parties**. No later than thirty (30) days prior to the deadline for opening claim construction briefs set forth above in paragraph 17, the parties shall notify the Court whether any party believes that the parties or any groups of parties should be severed from each other, whether there is agreement on the issue of severance, and, if there is not agreement, the competing proposals and bases for such proposals.

19. **Separation of Issues.** The issues of infringement and invalidity will be separated from the issues of inequitable conduct, willfulness and damages for purposes of discovery and trial. This Scheduling Order shall apply to the issues of infringement and invalidity and a new schedule will be issued, as appropriate, to address the issues of inequitable conduct, willfulness and damages.

20. **Applications by Motion.**

(a) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective June 30, 2007). Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1 and be made in accordance with the Court's February 1, 2008 Order on procedures for filing non-dispositive motions in patent cases. Briefs shall be limited to no more than ten (10) pages. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the

Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: jjf_civil@ded.uscourts.gov. The e-mail shall provide a short statement describing the emergency.

20. **Pretrial Conference and Trial.** After reviewing the parties' Proposed Scheduling Order, the Court will schedule a Pretrial Conference.

The Court will determine whether the trial date should be scheduled when the Scheduling Order is entered or at the Pretrial Conference. If scheduling of the trial date is deferred until the Pretrial Conference, the parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

January 19, 2010
DATE

UNITED STATES DISTRICT JUDGE