

1
2
3
4
5
6
7
8
9
10
11

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

IMPLICIT NETWORKS, INC.,

No. C 10-04234 SI

Plaintiff,

**ORDER RE IMPLICIT'S MOTION TO
COMPEL INTERROGATORY
RESPONSES**

v.

JUNIPER NETWORKS, INC.,

Defendant.

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Currently before the Court is plaintiff Implicit's motion to compel further responses to Interrogatories Nos. 15 & 16 [Docket No. 109].¹ The interrogatories seek information on how Juniper calculated a revenue summary provided to Implicit and ask Juniper to identify revenues from sales of products and services for the Accused Products and any produces that "work with" or are "related to" the Accused Products. Implicit argues that the revenue summary provided by Juniper is significantly lower than the revenues reported by Juniper in earnings calls, even after excluding non-US sales. Implicit also argues that Juniper's summary apparently excludes sales of products "related to" and sold in conjunction with the Accused Products, which Implicit argues are discoverable as part of its "convoy sales" damages. *See* Docket No. 111. Juniper argues that the raw sales data for the Accused Products provided to Juniper should suffice for Implicit's damage calculations. Juniper also argues that Implicit's interrogatories are impermissibly overbroad in seeking revenue for "any product" related to Accused Products because Juniper "integrates all of its product lines" and, therefore, Implicit's interrogatories encompass virtually every product Juniper sells. Docket No. 112. The Court finds that Implicit should be provided information as to how the summary was prepared, but that Juniper should not – at this

27
28

¹ Implicit also moves the Court for permission to file a reply [Docket No. 111] and Juniper opposes that motion or, in the alternative, submits a sur-reply [Docket No. 112]. The Court GRANTS Implicit's motion to file a reply and has reviewed and considered the parties' reply and sur-reply.

1 juncture – be required to provide detailed revenue information regarding non-Accused Products that it
2 contends are not relevant to damages.

3 Therefore, the Court rules as follows:

4 **Interrogatory No. 15.:** The Court GRANTS in part the motion to compel. Juniper shall
5 provided an amended answer that provides the following information:

6 As to the letter dated May 11, 2012 from Nima Hefazi and attached spreadsheet, and separately
7 for each revenue item shown for each product series and for each time period: describe with
8 particularity how Juniper calculated each and every item of revenue, including a specific
9 description of all numbers, facts, assumptions, accounting conventions and calculations related
10 to each item; identify, within each Series, which specific product, version, model name and
11 model number or service by name and number (including cards such as PIC or DPC) is included
12 in each item and the specific dollars attributable to such specific product or service name or
13 number; identify within each Series which specific product, version, model name and model
14 number or service by name and number is excluded from the revenue items on the spreadsheet,
15 yet is included in SRX revenue numbers released publicly by Juniper's Robyn Denholm or is
16 otherwise considered by Juniper in its business to be part of the SRX series, WX series, J series,
17 LN series, M series, MX series, T series, TX series, or any card (such as PIC or DPC) that works
18 with any product within the foregoing series of products, and set forth in detail the reasons for
19 exclusion, ~~and set forth individually by specific product or service version, model name and~~
20 ~~model number and quarter the revenue for any such excluded product or service; and~~ break
21 down each item of revenue into sales revenue versus services revenue versus other revenue
22 types; ~~and identify all related documents (including without limitation documents utilized in or~~
23 ~~relating to preparation of the spreadsheet or letter or by Robyn Denholm) and all persons with~~
24 knowledge.

25
26 **Interrogatory No. 16.:** The Court GRANTS in part the motion to compel in part. Juniper shall
27 provided an amended answer that provides the following information:

28 **Identify Separately** for each model, name, number or version of any **Accused Product product**

1 in or related to the SRX series, WX series, J series, LN series, M series, MX series, T series, TX
2 series, or any card (such as PIC or DPC) **necessary for the functioning of that works with**
3 ~~products in the foregoing series (whether or not Juniper considers same to be an Accused~~
4 ~~Product in this case): (1) state (quarterly, annually, or on whatever basis such information is~~
5 ~~maintained by you) the quantity sold, revenues, and profits and profit margin for each such~~
6 ~~model, name, number or version of any product manufactured, sold, offered for sale, licensed,~~
7 ~~leased, used, or otherwise distributed in the United States and for each such product~~
8 ~~manufactured or distributed outside the United States where you reasonably believed that such~~
9 ~~products would subsequently be imported or used in the United States; (2) identify each service~~
10 ~~that is sold or supplied in connection with any such model, name, number or version of any~~
11 ~~product, and state (quarterly, annually, or on whatever other basis such information is~~
12 ~~maintained by you) the quantity sold, revenues, and profits and profit margin for each such~~
13 ~~service sold, supplied, offered for sale, licensed, leased, used, or otherwise distributed in the~~
14 ~~United States and for each such product manufactured or distributed outside the United States~~
15 ~~where you reasonably believed that such products would subsequently be imported or used in~~
16 ~~the United States; and (3) identify all documents containing such information and all~~
17 ~~knowledgeable persons.~~

18
19 Further interrogatory responses shall be provided within **ten (10) days of the date of this**
20 **Order.**

21 Following the production of the supplemental responses, if Implicit can show that revenue
22 information for *particular* non-Accused Products or non-accused components that has been withheld
23 is necessary for its damages analysis, Implicit may move to compel that specific and narrowly identified
24 revenue information.

25 **IT IS SO ORDERED.**

26
27 Dated: July 23, 2012

28


SUSAN ILLSTON
United States District Judge