

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

FORTINET, INC., a corporation

Plaintiff,

vs.

SOPHOS, INC., a corporation, MICHAEL
VALENTINE, an individual, and JASON
CLARK, an individual.

Defendants.

Case No. 3:13-cv-05831-EMC-DMR

~~[PROPOSED]~~ **CORRECTED ORDER
REGARDING
FORTINET'S REQUESTS FOR
INSPECTION**

SOPHOS INC. and SOPHOS LTD.,
corporations,

Counterclaim Plaintiffs,

vs.

FORTINET, INC., a corporation,

Counterclaim Defendant.

PURSUANT TO STIPULATION, the Court hereby orders that:

1) Sophos will provide by end of businesses (5:00 PM Pacific) on June 29, 2015 to Fortinet's vendor Stroz Friedberg's San Francisco office, all forensic images in its possession from the Former Fortinet Employees¹ responsive to Fortinet's Requests for Inspection ("Requests"), including but not limited to "personal laptops," "Sophos laptops," smartphones and USB data transfer devices;

2) Fortinet will attempt to identify by manufacturer or name all USB devices it asserts were connected to the Former Fortinet Employees' personal laptops. Sophos will locate any such USB device that is still in the Former Fortinet Employees' possession and will provide images of those devices if located.

¹ As defined by the Requests, the "Former Fortinet Employees" are Michael Valentine, Kendra Krause, Robert Gattis, Craig Bradshaw, David DeHaven, Jason Clark, Christopher (Dean) Schroll, Jason Acosta, Benjamin Ellering, Ryan Archer, and Dolph Smith. Allison Valentine is also included for purposes of her devices.

1 3) Sophos will provide by end of businesses (5:00 PM Pacific) on July 3, 2015 to one of
2 Fortinet’s vendor Stroz Friedberg’s regional offices² all devices responsive to the Requests and not
3 previously imaged by Sophos within the last six months. Stroz Friedberg will endeavor to image those
4 devices as soon as possible and return them.

5 4) All transfers of device images between Sophos’s discovery vendor and Fortinet’s vendor
6 will be accompanied by appropriate chain-of-custody forms, and Sophos’s vendor will retain
7 duplicates of all such images;

8 5) Sophos (through its counsel) will provide an accounting of all devices in its possession
9 responsive to the Requests, including all devices currently in Sophos or the Former Fortinet
10 Employees’ possession, any devices that are responsive to the Requests but that no longer exist and/or
11 are now unavailable (including the circumstances why they are unavailable) and identifying any
12 employee for which Sophos contends does not have a device responsive to the Requests. Sophos will
13 provide this accounting by end of businesses (5:00 PM Pacific) on June 29, 2015;

14 6) Once in Stroz Friedberg’s possession, Fortinet counsel will not review or have access to the
15 imaged devices from Sophos directly. Instead, Stroz Friedberg will run searches and other analyses of
16 these devices, identifying relevant information. Fortinet counsel will be able to evaluate the results of
17 these searches/analyses by file name and meta-data (but not the contents). Upon identification of files
18 to Sophos’s counsel, Sophos’s counsel will have 10 days from receipt to either claim privilege on the
19 material or object on personal privacy grounds. Sophos will thereafter produce the requested files to
20 Fortinet, where they will be able to be viewed entirely by Fortinet’s counsel (subject to any
21 designations by the Protective Order). Any claims of privilege are subject to the Federal Rules of Civil
22 Procedure. Because of attorney-client privilege concerns, for the “Sophos laptops” only, Fortinet will
23 provide the search terms for which it uses to collect data from the devices prior to running any searches
24 on the images of those devices. Sophos will have 48 hours to provide any objections to Fortinet’s
25 proposed search terms. The devices/images will be kept securely within Stroz Friedberg’s offices until

26 _____
27 ² This includes offices in: San Francisco, Los Angeles, Dallas, Chicago, Minneapolis, Boston, and Washington DC.

1 they are returned to Sophos's vendor.

2 7) The parties will file a joint status report to update the Court on the progress of these
3 inspections on July 16, 2015.

4 8) This order replaces the Court's previous order at Dkt. No. 168.

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8 Dated: June 30, 2015 By: 

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HONORABLE DONNA M. RYU

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