

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  
SAN JOSE DIVISION

IN RE JUNIPER NETWORKS, INC. )  
SECURITIES LITIGATION )  
\_\_\_\_\_)  
THE NEW YORK CITY EMPLOYEES' )  
RETIREMENT SYSTEM, et al., )  
Plaintiffs, )  
v. )  
LISA C. BERRY, )  
Defendant. )  
\_\_\_\_\_)

Case No.: C 06-4327 JW (PVT)  
Case No.: C 08-00246 JW (PVT)

**ORDER RE LEAD PLAINTIFF'S MOTION  
TO AMEND THE NOVEMBER 17, 2008  
STIPULATED DISCOVERY PLAN IN *IN RE  
JUNIPER NETWORKS, INC. SECURITIES  
LITIGATION*, CASE No. 06-4327 JW**

On September 21, 2009, Lead Plaintiff in *In Re Juniper Networks, Inc. Securities Litigation*, Case No. 06-4327 JW (the "Juniper Action") filed a Motion to Amend the November 17, 2008 Stipulated Discovery Plan. Defendants in the Juniper Action opposed the motion.

On October 6, 2009, Defendants in the Juniper Action filed a Motion to Consolidate Related Cases, seeking to consolidate the Juniper Action with *The New York City Employees' Retirement System, et al. v. Lisa C. Berry*, Case No. 08-00246 JW (the "Berry Action"). The hearing on the motion to consolidate is currently scheduled for November 23, 2009 before District Judge Ware.

Discovery recently opened in the Berry Action. On October 15, 2009, District Judge Ware issued a Scheduling Order in which he adopted the discovery plan proposed by the Berry Action

1 parties in their Joint Case Management Statement. (See Docket No. 110 at 2:12-13.) In their Joint  
2 Case Management Statement, the parties in the Berry Action did not state any agreement regarding  
3 how many depositions each side may take. Defendant Berry indicated she needed 15 depositions.  
4 However, because the parties did not set forth an agreed number of depositions per side in the  
5 discovery plan that was adopted by District Judge Ware, the presumptive limit of ten depositions per  
6 side applies. See FED.R.CIV.PRO. 30(a)(2)(A)(i).

7 Having reviewed the papers submitted by the parties in connection with Lead Plaintiff's  
8 Motion to Amend the November 17, 2008 Stipulated Discovery Plan, the court finds it appropriate to  
9 issue this interim order.

10 IT IS HEREBY ORDERED that Lead Plaintiff's Motion to Amend the November 17, 2008  
11 Stipulated Discovery Plan is GRANTED IN PART. The court is inclined to amend the November  
12 17, 2008 Stipulated Discovery Plan to cover the number of depositions and/or deposition hours  
13 allotted to the parties in both the Juniper Action and the Berry Action.

14 IT IS FURTHER ORDERED that, no later than November 6, 2009, the parties in both the  
15 Juniper Action and the Berry Action shall meet and confer regarding the number of depositions  
16 and/or deposition hours Lead Plaintiff and Defendant Berry shall have (as well as any other parties  
17 seeking additional depositions). The court is *not* inclined to grant Lead Plaintiff's request for 15  
18 more full 7 hour depositions, but it is willing to grant either a smaller number of depositions, or a  
19 reasonable amount of additional deposition time to be divided between up to 15 deponents  
20 (assuming each such deposition is short). Lead Plaintiff has made an adequate showing that some  
21 additional deposition time is warranted. And in the Berry Action Lead Plaintiff is presumptively  
22 entitled to ten depositions. However, the parties are seeking consolidation of the two cases, and in  
23 light of the 30 depositions Lead Plaintiff is already taking, the court expects that only brief  
24 questioning will be necessary for the depositions Lead Plaintiff now seeks.

25 IT IS FURTHER ORDERED that, no later than November 10, 2009, the parties shall submit  
26 either a joint stipulation regarding the number of depositions and/or deposition hours<sup>1</sup> allotted to the  
27

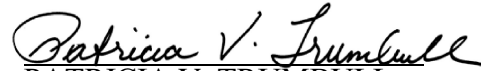
---

28 <sup>1</sup> In the event the parties opt to use hours of deposition rather than a number of depositions,  
the parties shall include a percentage of time to be allocated for cross-examination by other parties.

1 parties in both the Juniper Action and the Berry Action, or else their respective proposals.

2 IT IS FURTHER ORDERED that the hearing currently scheduled for November 3, 2009, is  
3 VACATED. The court will issue a further order after receipt of the parties joint or respective  
4 submissions.

5 Dated: 11/2/09

6   
7 PATRICIA V. TRUMBULL  
8 United States Magistrate Judge  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28