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7	IN THE UNITED STATES DISTRICT COURT		
8	FOR THE NORTHERN DISTRICT OF CALIFORNIA		
9	SAN JOSE DIVISION		
10	In re Juniper Networks, Inc. Securities NO. C 06-04327 JW Litigation NO. C 08-00246 JW		
11	ORDER DENYING DEFENDANTS'		
12	MOTION TO CONSOLIDATE CASES; VACATING CASE MANAGEMENT		
13	CONFERENCES		
14	/		
15	Presently before the Court is Defendants' Motion to Consolidate Related Cases. (hereafter,		
16	"Motion," Docket Item No. 144.) Defendants seek to consolidate In re Juniper Networks, Inc.		
17 18	Securities Litigation, Case No. C 06-04327 JW, with The New York City Employees' Retirement		
10 19	System v. Lisa Berry, Case No. C 08-0246 JW. Plaintiffs in both actions have filed timely responses		
19 20	to Defendants' motion. (See Docket Item No. 146 in C 06-04327; Docket Item No. 39 in C 08-		
20 21	0246.)		
	Defendants contend that these cases should be consolidated because they involve common		
22 23	questions of law and fact. See Fed. R. Civ. P. 42(a). Plaintiffs collectively contend that Defendants'		
	motion is merely a tactical move to invoke a global stay of the Juniper action.		
24 25	The Court finds that consolidation is inappropriate at this time. Consolidation of these		
25 26	actions would result in an automatic stay of discovery under the Private Securities Litigation Reform		
26 27	Act, ¹ because Defendant in the <u>Berry</u> action has filed a Motion to Dismiss. Given that the two		
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28	¹ 15 U.S.C. § $78u-4(b)(3)(B)$.		

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2 overcome a Motion to Dismiss, discovery in the Juniper action should proceed. Although 3 Defendants' contention that the two actions should be consolidated is not without merit, the Court 4 finds that consideration of this issue will be more appropriate following resolution of the Motion to 5 Dismiss in the related Berry action. To consolidate these actions now would be unduly prejudicial 6 to Plaintiffs, who are ready to commence discovery in the Juniper action, having survived a Motion 7 to Dismiss in March, 2008. (See Docket Item No. 133.) 8 Accordingly, the Court DENIES Defendants' Motion to Consolidate without prejudice, 9 giving Defendants' leave to renew this Motion pending resolution of the Motion to Dismiss in the 10 Berry action.

In light of this Order, the Court VACATES the Case Management Conferences presently 12 scheduled for October 6, 2008 for both cases.

actions were filed well over one year apart, and that Plaintiffs in the Juniper action have already

13 With respect to the Juniper action, the Court refers the parties to the assigned Magistrate Judge, Judge Trumbull, to meet and confer and to develop a good faith discovery plan. The parties 14 15 shall contact Judge Trumbull's Chambers within ten (10) days from the date of this Order to 16 schedule their conference. Within ten (10) days following the parties' conference with Judge 17 Trumbull, the parties shall file a Stipulated Discovery Plan for the Court's approval, including a 18 proposed date for the close of all discovery.

19 With respect to the <u>Berry</u> action, since Defendant has filed and noticed her Motion to 20 Dismiss for January 12, 2009, the Court will set a new conference date in its Order addressing that 21 motion.

23 Dated: October 1, 2008

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States District Judge

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THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO: