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Attorneys for Defendants and Counterclaim
 Plaintiffs PALO ALTO NETWORKS, INC.
 AND PATRICK BROGAN

9 Attorneys for Plaintiff and Counterclaim
 10 Defendant FORTINET, INC.

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11 **UNITED STATES DISTRICT COURT**
 12 **NORTHERN DISTRICT OF CALIFORNIA**
 13 **SAN JOSE DIVISION**

14 FORTINET, INC.,)
 15)
 Plaintiff,)
 16)
 v.)
 17)
 PALO ALTO NETWORKS, INC., and)
 18)
 PATRICK R. BROGAN,)
 19)
 Defendants.)
 20)
 21)
 AND RELATED COUNTERCLAIMS.)
 22)
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CASE NO.: 09-CV-00036-RMW (PVT)

**STIPULATION AND []
 ORDER REGARDING LOGISTICS
 FOR CLAIM CONSTRUCTION AND
 SUMMARY JUDGMENT HEARING
 SCHEDULED FOR JULY 20, 2010**

1 Plaintiff and Counterclaim Defendant Fortinet, Inc. ("Fortinet") and Defendant and
2 Counterclaim Plaintiff Palo Alto Networks, Inc. ("PAN") submit this Stipulation and [Proposed]
3 Order Regarding Logistics for the Claim Construction and Summary Judgment Hearing
4 Scheduled for July 14, 2010 in accordance with the Minute Order (Dkt #58) setting the claim
5 construction hearing and adopting the proposed dates in the Parties' Subsequent Joint Case
6 Management Statement (Dkt # 52).

7 Fortinet and PAN are scheduled to appear before this Court for a combined Claim
8 Construction and Summary Judgment Hearing on July 20, 2010 at 9:00 a.m. In advance of the
9 hearing, the parties request the Court approve the agreed upon logistics for the following issues:
10 (1) the duration and format of the technology tutorial; (2) the order of presentation for the
11 hearing; and (3) the entry of equipment into the Court for the hearing. In the alternative, the
12 parties request the Court provide guidance regarding its preferred approach.

13 **1. Technology Tutorial**

14 The parties propose that the technology tutorial should be limited to 20-30 minutes per
15 side and may be accompanied by demonstrative support at the parties' discretion. Fortinet will
16 present its technology tutorial first followed by PAN. The parties will exchange any
17 demonstratives to be used in their respective tutorials by July 12, 2010 at 6 p.m.

18 **2. Claim Construction and Summary Judgment Hearing**

19 The parties propose the hearing proceed on a patent by patent basis with arguments for all
20 claim terms for construction and summary judgment motion(s) for a given patent being made by
21 both sides before continuing onto the next patent. Fortinet and PAN do not believe that live
22 testimony is necessary, although the parties are willing to make witnesses available if the Court
23 believes that live testimony would be of assistance to the Court.

24 For a given patent, the parties propose that arguments for the claim terms in need of
25 construction will be presented first with each party presenting its position. The patent owner will
26 present first with the accused infringer following. The parties agree that all terms for a given
27 patent may be presented together, understanding that the Court may prefer to hear rebuttal on a
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1 claim element by claim element basis. Arguments on the summary judgment motion(s) will
2 follow with the moving party speaking first followed by the opposing party.

3 More specifically, the parties propose the following agenda for arguments. There are five
4 patents-in-suit: U.S. Patent No. 7,376,125 (“the ‘125 patent”), U.S. Patent No. 7,177,311 (“the
5 ‘311 patent”), U.S. Patent No. 7,519,990 (“the ‘990 patent”), and U.S. Patent No. 7,580,974
6 (“the ‘974 patent”), owned by Fortinet, and U.S. Patent No. 6,912,272 (“the ‘272 patent”),
7 owned by PAN. The parties agree that the issues should be presented as follows:

- 8 1. ‘990 patent
 - 9 a. Claim construction
 - 10 b. Motion for Summary Judgment of Noninfringement Regarding the ‘990
11 Patent
 - 12 c. Motion for Summary Judgment of Invalidity Regarding the ‘990 Patent
- 13 2. ‘125 and ‘311 patents
 - 14 a. Claim construction
 - 15 b. Motion for Summary Judgment of Noninfringement Regarding the ‘125 and
16 ‘311 Patents
- 17 3. ‘974 patent
 - 18 a. Claim construction
 - 19 b. Motion for Summary Judgment of Noninfringement and Invalidity of the
20 ‘974 Patent
- 21 4. ‘272 patent
 - 22 a. Claim construction
 - 23 b. Motion for Summary Judgment of Noninfringement

24 In advance of the hearing, the parties will meet and confer in an attempt to narrow the issues that
25 the parties present orally to the Court.

26 3. Entry of Equipment into Court

27 The parties agree that it will be necessary to bring certain equipment into the courtroom
28 to be used during the hearing. The parties have identified the following list of equipment for
entry into the courtroom:

- 29 • 2 laptops
- 30 • 1 projector
- 31 • 1 projection screen
- 32 • Miscellaneous cables

33 The parties agree that the equipment may be brought into the courtroom in advance of the
34 hearing in order to assemble it. The parties will identify a time with the courtroom clerk that is

1 convenient for the entry of equipment.

2 Dated: June 25, 2010

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Professional Corporation

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By: /s/ Stefani E. Shanberg
Stefani E. Shanberg

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Attorneys for Plaintiff and Counterclaim
Defendant FORTINET, INC.

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7 Dated: June 25, 2010

DURIE TANGRI LLP

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By: /s/ Ryan M. Kent
Ryan M. Kent

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Attorneys for Defendants and Counterclaim
Plaintiffs PALO ALTO NETWORKS, INC.
AND PATRICK BROGAN

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

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DATED: 7/14/10


The Honorable Ronald M. Whyte

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