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 2 JAMS
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 5
 6 Special Master
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9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN JOSE DIVISION
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13 BROCADE COMMUNICATIONS
 SYSTEMS, INC., a Delaware corporation, and
 14 FOUNDRY NETWORKS, LLC, a Delaware
 limited liability company,

15 Plaintiffs,
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17 v.

18 A10 NETWORKS, INC., a California
 corporation; LEE CHEN, an individual;
 19 RAJKUMAR JALAN; an individual; RON
 SZETO, an individual; DAVID CHEUNG, an
 20 individual; LIANG HAN, an individual; and
 STEVEN HWANG, an individual,

21 Defendants.
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Case No. 10-cv-03428 LHK

~~PROPOSED~~ AMENDED ORDER
 APPOINTING THE HONORABLE
 READ AMBLER, RET., AS SPECIAL
 MASTER

1 Plaintiffs Brocade Communications Systems, Inc. and Foundry Networks, LLC's
2 ("Plaintiffs") Motion for Contempt, Expedited Discovery, and Appointment of Special Master
3 was heard on August 12, 2011. The Court, after reviewing all papers submitted in support of and
4 opposition to the motion, and after hearing oral argument in the matter, granted in part Brocade's
5 request for appointment of a Special Master and ordered the parties to meet and confer and agree
6 upon an appointment by August 16, 2011. The parties complied and agreed to the appointment of
7 Judge Read Ambler (Ret.), and in an Order of this Court dated August 30, 2011, he was appointed
8 "to oversee the collection and production of source code from A10 that predates March 8, 2007...
9 (which) production shall occur on or before September 9, 2011." ("Order".)

10 Upon further consideration the Order is hereby modified as follows:

- 11 1. A neutral forensic expert shall be retained and appointed by the Special Master at the
12 parties' expense, to assist him in his assigned duties. Counsel shall promptly meet and
13 confer and try to agree upon a nominee; but if they cannot so agree, each party shall
14 not later close of business on Monday, September 12, 2011, submit to the Special
15 Master a nominee together with a statement of qualifications, which shall address any
16 conflicts of interest the nominee may have herein;
- 17 2. The Special Master and neutral expert shall meet and confer to determine whether a
18 site visit to A10 is appropriate. Such site visit to A10 may then be scheduled and
19 conducted as the Special Master deems necessary.
- 20 3. Each A10 employee who was employed by A10 as of March 8, 2007 and was
21 responsible in any way for writing source code for the accused AX devices ("A10
22 source code") shall provide a declaration under penalty of perjury confirming that A10
23 has images of any such pre-release source code which predates March 8, 2007, that
24 such employee may have worked on and/or stored on any devices. All declarations
25 shall be submitted to the Special Master on or before September 15, 2011. The Special
26 Master may, upon a showing of good cause, extend this date.
- 27 4. All A10 source code pre-dating March 8, 2007 shall be deposited at Iron Mountain per
28 the prior orders entered in this action on or before September 23, 2011. The Special

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Master may, upon a showing of good cause, advance or extend this date.

5. The fees and costs of both the Special Master and appointed neutral forensic expert shall be borne equally by both parties subject to a provision that such costs may be reallocated at a later date based upon a showing of good cause. Such showing must be established through a noticed motion before the Honorable Lucy H. Koh with an opportunity for the parties to be heard prior to the issuance of any reallocation order.

DATED: September 9, 2011



Honorable Lucy H. Koh
United States District Judge