

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

NETWORK-1 SECURITY SOLUTIONS,
INC., a Delaware corporation,

Plaintiff,

vs.

CISCO SYSTEMS, INC., a California corporation; CISCO-LINKSYS, L.L.C., a California Limited Liability Company; ADTRAN, INC., a Delaware corporation; ENTERASYS NETWORKS, INC., a Delaware corporation; EXTREME NETWORKS, INC., a Delaware corporation; FOUNDRY NETWORKS, INC., a Delaware corporation; NETGEAR, INC., a Delaware corporation; 3COM CORPORATION, a Delaware corporation;

Defendants.

CASE NO. 6:08cv030-LED

JURY DEMANDED

**Parties' Compliance with
Patent Rule 4-3**

**Joint Claim Construction and
Prehearing Statement**

**Parties' Joint Claim Construction and Prehearing Statement
Pursuant to Patent Rule 4-3**

Pursuant to Patent Rule 4-3, Network-1 Security Solutions, Inc. ("Network-1") and Defendants Cisco Systems, Inc., Cisco-Linksys, L.L.C., Adtran, Inc., Enterasys Networks, Inc., Extreme Networks, Inc., Foundry Networks, Inc., and 3Com Corporation (collectively "Defendants") submit this Joint Claim Construction and Prehearing Statement in accordance with the Court's June 17, 2008 Docket Control Order.

I. Pursuant to P. R. 4-3(a), the parties do not agree to the construction of any terms or phrases.

II. Pursuant to P. R. 4-3(b), the parties dispute the construction of the claim terms, phrases, or clauses set forth in Exhibit A. For the convenience of the Court, the parties' proposed constructions for the disputed claim terms and phrases are found in the table attached as Exhibit A. This table also includes each party's identification of intrinsic and extrinsic evidence in support of their respective proposed constructions.

III. Pursuant to P.R. 4-3(c):
Plaintiff and Defendants anticipate the length of time necessary for the Claim Construction Hearing is approximately 2 hours per side for a total of 4 hours.

IV. Pursuant to P.R. 4-3(d), the parties state as follows:

- A. The parties agree that neither side will present live expert testimony at the hearing. Because the parties will not be calling witnesses at the Claim Construction Hearing, the parties are not providing information pursuant to P.R 4-3(d) at this time. The parties, however, may submit declarations to support their claim constructions.
- B. Network-1's additional position: If the parties intend to submit a declaration to support their claim constructions, the parties should provide a copy of the declaration to the opposing parties such that the opposing parties have the opportunity, if they chose, to depose the declarant during the Claim Construction discovery period.
- C. Defendants additional position: If Plaintiff submits an expert declaration in support of its claim construction, then pursuant to Patent Local Rule 4-5(b), the defendants reserve the right to submit evidence with their responsive brief, including, if necessary, an expert declaration in response to any submitted by plaintiff with its opening brief pursuant to Patent Local Rule 4-5(a).

- V. Pursuant to P.R. 4-3(e), the parties do not believe that a prehearing conference prior to the Claim Construction Hearing is necessary.
- VI. The parties have agreed to use Michael T. McLemore as a Technical Advisor to assist the Court in the Claim Construction Hearing. Mr. McLemore's information is attached. Mr. McLemore has confirmed that he is available to attend the Claim Construction Hearing.

Dated: July 24, 2009

Respectfully submitted,

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