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21 **UNITED STATES DISTRICT COURT**

22 **NORTHERN DISTRICT OF CALIFORNIA**

23 CHRIMAR SYSTEMS INC., et al. , ) Case No. 3:16-cv-00186-SI  
Plaintiffs, )  
24 vs. ) (Concurrently Filed in Case No. 3:16-cv-  
00624-SI; 3:16-cv-00558-SI; 3:16-cv-00897-  
25 RUCKUS WIRELESS, INC., ) SI  
Defendant. )  
26 **DEFENDANTS' PRELIMINARY CLAIM**  
27 **CONSTRUCTIONS AND PRELIMINARY**  
**IDENTIFICATION OF EXTRINSIC**  
**EVIDENCE**

28

1 vs. )  
2 NETGEAR, INC., )  
3 Defendant. )  
4 vs. )  
5 JUNIPER NETWORKS, INC., )  
6 Defendant. )  
7 vs. )  
8 FORTINET, INC., )  
9 Defendant. )

10 **1. PRELIMINARY CLAIM CONSTRUCTIONS AND IDENTIFICATION OF**  
11 **INTRINSIC SUPPORT**

12 Pursuant to Patent Local Rule 4-2, Defendants Ruckus Wireless, Inc., NETGEAR, Inc.,  
13 Juniper Networks, Inc., and Fortinet, Inc. (collectively, the “Defendants”), hereby provide their  
14 preliminary claim constructions with respect to the asserted claims 31, 35, 36, 40, 43, 52, 56, 59,  
15 60, and 65 of U.S. Patent No. 8,155,012 (the “012 Patent”); claims 1, 31, 37, 59, 69, 72, 73, 106,  
16 112, 134, 142, and 145 of U.S. Patent No. 8,902,760 (the “760 Patent”); claims 1, 5, 31, 43, 70,  
17 72, 75, 83, 103, 104, 111, 123, and 125 of U.S. Patent No. 8,942,107 (the “107 Patent”); and 1, 2,  
18 7, 26, 29, 38, 40, 47, 55, and 69 of U.S. Patent No. 9,019,838 (the “838 Patent”) (collectively, the  
19 “Asserted Claims”) and intrinsic support for those constructions.

20 Defendants’ proposed terms and claim elements for construction are limited to the patent  
21 claims identified in Plaintiffs ChriMar Systems, Inc. d/b/a CMS Technologies and ChriMar  
22 Holding Company, LLC (“Plaintiffs”) Patent Local Rule 3-1 and 3-2 Disclosures. Defendants’  
23 proposed constructions are based upon information currently available to Defendants. One or  
24 more of these claim terms and phrases are indefinite and otherwise improper under 35 U.S.C.  
25 § 112(2), and Defendants reserve all rights to assert those defects as to each such claim term or  
26 phrase. Additionally, as discovery progresses, Plaintiffs produce documents that have or will be  
27 requested, and additional information becomes available, Defendants reserve the right to amend  
28 their proposed constructions following their meet and confer with Plaintiffs in preparation for

1 filing a Joint Claim Construction Statement, pursuant to Patent Local Rule 4-3. Defendants  
2 reserve the right to supplement, revise, modify, or otherwise finalize the proposed constructions,  
3 positions, and/or information in this disclosure to take into account additional information that  
4 comes to light, including without limitation as additional contentions are made, facts are  
5 ascertained, analyses are made, and proposed constructions are provided by Plaintiffs.

6 Subject to the above limitations and reservations of rights, Defendants submit the  
7 following proposed constructions as set forth in Attachment A for the Asserted Claims.

8 As for the remaining terms and phrases identified by Defendants in their Patent Local Rule  
9 4-1 Disclosures, Defendants agree with Plaintiff that those terms and phrases do not require the  
10 Court's construction at this time.

## 11 **2. PRELIMINARY IDENTIFICATION OF EXTRINSIC EVIDENCE**

12 Pursuant to Patent Local Rule 4-2 and the Court's Civil Minutes Order, Dkt. No. 68,  
13 Defendants provide below a preliminary identification of extrinsic support for their claim  
14 construction positions, including with respect to confirming the plain and ordinary meaning of the  
15 terms identified in their Patent Local Rule 4-1 disclosures (to the extent that Plaintiffs construes  
16 those terms contrary to their plain and ordinary meaning as would be understood by one of  
17 ordinary skill in the art): CMS-4-2\_00000001 - CMS-4-2\_00008343. Defendants also expressly  
18 reserve the right to rely on any extrinsic evidence that Plaintiffs rely upon and/or to supplement  
19 this disclosure if Plaintiffs propose a construction or applies a different meaning of the terms than  
20 the plain and ordinary meaning.

21 Defendants may also rely upon the testimony, statements, and/or deposition exhibits of the  
22 listed inventors and/or prosecuting attorneys of the Patents-in-Suit<sup>1</sup> for claim construction  
23 purposes. In summary, such testimony could include an explanation of the meaning of the claim  
24 terms in the context of the subject matter of the Patents-in-Suit, a description of the state of the  
25 technology relating to the claimed invention at the time the applications for the Patents-in-Suit  
26 were filed, a description of the qualifications of a person of ordinary skill in the art at the time the

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28 <sup>1</sup> The "Patents-in-Suit" refers to the '012 Patent, '760 Patent, '107 Patent, and '838 Patent.

1 applications for the Patents-in-Suit were filed, and how a person of ordinary skill in the art would  
2 interpret the identified claim terms or phrases at the time the applications for the ‘Patents-in-Suit  
3 were filed. Defendants may supplement their claim constructions following the completion of the  
4 depositions of the above-listed individuals or entities.

5 Defendants may also rely upon the testimony and/or statements of their expert, Mr. Ian  
6 Crayford, regarding the proposed constructions, including the indefiniteness of any claims. Mr.  
7 Crayford’s resume is attached hereto as Attachment B. In summary, such testimony could include  
8 an explanation of the meaning of the claim terms in the context of the subject matter of the  
9 Patents-in-Suit, a description of the state of the technology relating to the claimed inventions at the  
10 time the applications for the Patents-in-Suit were filed, a description of the qualifications of a  
11 person of ordinary skill in the art at the time the applications for the Patents-in-Suit were filed, and  
12 how a person of ordinary skill in the art would interpret the identified claim terms or phrases at the  
13 time the applications for the Patents-in-Suit were filed. Such testimony could also include an  
14 opinion that a person of ordinary skill in the art at the time the applications for the Patents-in-Suit  
15 were filed would construe the claim terms as Defendants have proposed. Defendants also  
16 expressly reserve the right to rely on additional expert opinions in rebuttal of any opinions  
17 submitted by Plaintiffs.

18 Finally, Defendants may rely upon declarations of other prior artists identified in  
19 Defendants’ Patent Local Rule 3-3 disclosures. Such declarations relate to the understanding of  
20 those of ordinary skill in the art regarding the plain and ordinary meaning of the disputed terms in  
21 the context of the subject matter of the Patents-in-Suit and a description of the state of the  
22 technology relating to the claimed invention at the time the applications for the Patents-in-Suit  
23 were filed.

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1 Dated: August 19, 2016

2 Respectfully submitted,

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