

FISCH SIGLER LLP

5301 Wisconsin Avenue NW | Fourth Floor | Washington, DC 20015 USA

April 30, 2020

VIA EMAIL

Jonathan T. Suder
Corby R. Vowell
Friedman, Suder & Cooke
604 East 4th Street, Suite 200
Fort Worth, TX 76102
jts@fsclaw.com
vowell@fsclaw.com

Robert Allan Bullwinkel
Heim, Payne & Chorush, LLP
1111 Bagby Street, Suite 2100
Houston, Texas 77002
abullwinkel@hpcllp.com

R. William Sigler
Partner

Bill.Sigler@FischLLP.com
Direct: +1.202.362.3520
Main: +1.202.362.3500

Re: *Packet Intelligence LLC v. Juniper Networks, Inc.*
Case No. 3:19-cv-04741-WHO

Dear Counsel:

We have recently become aware that Kevin Almeroth has a conflict of interest in this litigation, and thus object to his participation in this case or the related IPRs in any way.

Juniper previously retained Dr. Almeroth in late 2013 in connection with Juniper's disputes with Palo Alto Networks. More particularly, Dr. Almeroth participated as an expert witness for Juniper in IPR2013-00466, IPR2013-00369, *Juniper Networks, Inc. v. Palo Alto Networks, Inc.*, Case No. 1:11-cv-01258-SLR (D. Del.), and *Palo Alto Networks, Inc. v. Juniper Networks, Inc.*, Case No. 4:13-cv-04510-SBA (N.D. Cal.). In the course of his work on these matters, Dr. Almeroth provided multiple expert reports and deposition testimony on behalf of Juniper. And Juniper compensated Dr. Almeroth \$85,808.02 for his work on the PAN cases.

The technical subject matter in those cases overlaps with that at-issue in this case, including flow/session technologies, JUNOS, application identification, and application-layer monitoring. Indeed, the same products accused in this case (SRX and MX products) and some of the same prior art in this case were also at issue in the prior cases.

Dr. Almeroth also received and discussed substantial Juniper privileged and confidential information in the PAN cases. For instance, Juniper's outside counsel in those cases, Irell & Manella, had multiple conversations with Dr. Almeroth on litigation strategy. And Dr. Almeroth

- 2 -

also discussed substantive arguments regarding Juniper products and prior art, including the issues addressed in his expert reports, with Juniper's counsel.¹

Dr. Almeroth remains obligated to not disclose or use Juniper's confidential information, including legal theories, confidential work product, or any other privileged or confidential information belonging to Juniper, except as allowed within the scope of his work for Juniper in its disputes with PAN.

As such, please confirm by May 7:

1. That neither outside nor in-house counsel for Packet Intelligence have had any communications with Dr. Almeroth regarding Juniper's products or technology.
2. That neither outside nor in-house counsel for Packet Intelligence have had any communications with Dr. Almeroth regarding the accused infringement of Juniper's products.
3. That neither outside nor in-house counsel for Packet Intelligence have had any communications with Dr. Almeroth regarding prior art previously analyzed, discussed, or asserted in Dr. Almeroth's previous representation of Juniper.
4. That outside and in-house counsel for Packet Intelligence will refrain from any substantive communications about the case with Dr. Almeroth going forward.
5. Whether Packet Intelligence will continue to use Dr. Almeroth as an expert witness for claim construction in this case.²
6. Whether Packet Intelligence will seek to use Dr. Almeroth as an expert witness for infringement or invalidity in this case.
7. Whether Packet Intelligence intends to use Dr. Almeroth as an expert witness in the IPRs filed by Juniper challenging the validity of the patents asserted by Packet Intelligence.

Thank you for your attention to these issues, and we look forward to your response. If you'd like to discuss any of these issues, we can be available for a call.

Sincerely,



Bill Sigler

cc: All Counsel of Record for Packet Intelligence

¹ Additional details about Dr. Almeroth's work in the PAN cases can be found in the briefing in support of the motion to exclude Dr. Almeroth that Juniper filed in *Implicit, LLC v. Juniper Networks, Inc.*, No. 2:19-cv-37 (E.D. Tex.). See Dkt. Nos. 177 & 205.

² To date, Packet Intelligence has not provided a current curriculum vitae for Dr. Almeroth, either under the agreed protective order, with his claim construction declaration, or with any other materials. The agreed protective order requires that the curriculum vitae include an identification of each entity for which the expert provided services in connection with a litigation for the preceding 10 years.