UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

SECTRA COMMUNICATIONS AB, Plaintiff, v. CISCO SYSTEMS, INC. Defendant.	Case No. 2:26-cv-0174-RWS (Lead) JURY TRIAL DEMANDED
SECTRA COMMUNICATIONS AB, *Plaintiff*, v. FORTINET, INC., *Defendant*.	Case No. 2:26-cv-00175-RWS-RSP **JURY TRIAL DEMANDED**

DEFENDANTS' RESPONSE TO PLAINTIFF'S OPPOSED MOTION FOR LEAVE TO FILE A REPLY IN SUPPORT OF MOTION TO COMPEL

Defendants Cisco Systems, Inc. and Fortinet, Inc. (collectively, "Defendants") respond to Plaintiff Sectra Communications AB's Opposed Motion for Leave to File a Reply in Support of Motion to Compel Compliance with the Protective Order. Dkt. 46.

At Plaintiff's request, Defendants previously agreed to expedite briefing on Plaintiff's Motion to Compel based on Plaintiff's assessment that "[c]onsidering the low page limit, simplicity of the issues, and urgency to move the case forward," it did "not expect any additional briefing beyond the motion and forthcoming response." Defendants then undertook the burden of expediting a response, which included preparing multiple declarations. Dkt. 45-1 and 45-2. Apparently unhappy with how the briefing turned out, Plaintiff now wants to do the opposite of

expediting and add an additional round of briefing. Plaintiff offers three arguments in support of this request.[1]

First, Plaintiff seeks to impose a non-existent requirement that Defendants (the non-movants) should have provided a written explanation of objections prior to Plaintiff moving, and then Defendants should have briefed each objection. This argument is based on a fundamental misunderstanding of the meet-and-confer process. Defendants participated in a fulsome meet-and-confer process with Plaintiff, including multiple calls and numerous emails as described in Plaintiff's Certificate of Conference. Dkt. 42 at 9. Both parties raised various issues as the discussions evolved, and then the last meet-and-confer addressed the AI tools exclusively. Reducing the scope of the dispute is the goal of the process; it is not a reason to invite more briefing. This is reflected in the Court's reasoning for the specific requirements in the meet-and-confer process: "to maximize the best use of the Court's limited resources." Standing Order at 1.

Second, Plaintiff argues that Defendants' focus on Paragraph 10(a) of the Protective Order was a new argument. In fact, Defendants were responding to Plaintiff's opening brief, where it conceded that Cisco's "choice" to produce its code using a "remote thin client" was "authorized" by Paragraph 10(a), but Plaintiff incorrectly argued that that this choice was somehow "fatal to Cisco's 'breaking out of the sandbox" objection'." *See* Dkt. 42 at 3-4. Defendants' Response showed that Paragraph 10(a) explicitly states that the use of such a thin client is "**solely the decision of the producing Party**," which is obviously incompatible with Plaintiff's position that

[1] Plaintiff also made the procedural argument to Defendants that the Court's discovery procedure contemplates further briefing. The Court's Standing Order states: "No further briefing is allowed absent a request or order from the Court." Standing Order Regarding "Meet and Confer" Obligations Relating to Discovery Disputes (E.D. Tex. June 3, 2016). Plaintiff argued that this prohibition contemplates additional briefing if a party requests it. Defendants submit that briefing on Plaintiff's Motion to Compel Compliance with Protective Order (Dkt. 42) was completed on September 24, 2026 with Defendants' Response (Dkt. 45).

it can unilaterally require use of an AI-tool that Plaintiff tacitly concedes is too dangerous in that environment. Dkt. 45 at 3. The fact that Defendants were able to show that Plaintiff's argument was so incorrect as to be a freestanding reason to deny Plaintiff's Motion does not change the rules on briefing.

Third, Plaintiff's motion references the numerous headlines about the unknowable risks of AI, but Plaintiff does not suggest anything about this point was new. Indeed, the basic danger from the unknown nature of AI has always been the core of Defendants' opposition to using AI-based tools on Defendants' code. Plaintiff's argument that it needs to file a Reply because these headlines are only about dangers from networked tools is both incorrect (because the cited reports include dangerous unauthorized activity separate and apart from network-related breaches) and underscores why Defendants would not allow AI-based tools on its networked thin client, which it has the choice to use under Paragraph 10(a) of the Protective Order. *See* Dkt. 45 at 5, citing OpenAI research regarding "Unsanctioned Artifactory writes and cross-sample communication" (AI agent made unauthorized write to an internally-hosted Artifactory instance (i.e., a binary repository manager used to host software build artifacts); it "uploaded a small file to two shared repositories, read both copies back, and tried to delete them" and also attempted to find routes around blocked requests).

In sum, nothing has changed. Accordingly, Defendants submit that no further briefing is necessary. If the Court grants Plaintiff leave to file the Reply that is currently docketed as Dkt. 47, however, Defendants request that they likewise be permitted a three-page sur-reply.

Dated: October 14, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on October 14, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Melissa R. Smith
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