E-Mail Request for Emergency Relief

1. Case Number: 05 -cv- 418 -SLR

2. Check the box that applies:

- ☐ Requesting a teleconference with the parties and the court
- ☐ Requesting an in-person conference with the parties and the court
- ☑ Requesting either of the above listed options at the court's determination

3. BRIEFLY describe the reason for this **emergency** request:

Alcatel seeks the Court's assistance for a discovery dispute which concerns the definition of accused products and Foundry's responses to discovery on its accused products.

Alcatel defined the accused products and provided detailed infringement claim charts, which cross-reference all Foundry model numbers with the infringing features. However we have learned that Foundry has not provided discovery on some of these products, relying on its own definition of accused products.

Because this issue is complex, we would greatly appreciate a chance to discuss it with the Court either in a discovery status conference or teleconference.

*Any text added beyond the limits of this space will be disregarded by the court.

4. Name of opposing counsel contacted about this request: Matt Poppe

5. Response of opposing counsel to this request:

opposed

6. Name of local counsel making this request: Josy Ingersoll

7. Today's Date: 7/24/2006

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For court use only:

* ☑ A teleconference will be held on Tuesday, August 1 at 10:00 am to be coordinated and initiated by plaintiff's counsel.

☐ An in-person discovery conference will be held on:

* ☐ Other: If defendant's characterization is correct, plaintiff will be charged the costs of the conference.

Opposing Counsel's Response to E-Mail Request for Emergency Relief

1. Case Number: 05 -cv- 418 -SLR

2. BRIEFLY state your response to the **emergency** request made by opposing counsel:

This is not properly an emergency motion. Alcatel has been on notice of Foundry's position on the scope of discovery with regard to Foundry products since November 2005, when the parties discussed whether documents related to Foundry's Terathon products would be produced. Long ago, Foundry served an interrogatory asking Alcatel for its infringement contentions and supporting evidence. Although Alcatel purports to define "accused products" very broadly, it has cited no evidence related to most of these products in its interrogatory responses. Foundry objected to producing documents related to products as to which Alcatel has no Rule 11 basis to proceed. When this issue came before the Court earlier this year, the Court ordered Alcatel to provide a claim chart for Foundry Terathon products if Alcatel wished to name them as accused products. Alcatel never complied with that order.

*Any text added to beyond the limits of this space will be disregarded by the Court.

3. Name of local counsel making this request: Philip A. Rovner

4. Today's Date: July 25, 2006

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