

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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EXTREME NETWORKS, INC.,

ORDER

Plaintiff,

07-cv-229-bbc

v.

ENTERASYS NETWORKS, INC.,

Defendant.

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Plaintiff Extreme Networks, Inc. has filed a motion for sanctions against defendant Enterasys Networks, Inc. on the ground that defendant produced more than 75,000 pages of documents on the last day of discovery, only a few weeks before trial. Plaintiff seeks dismissal of defendant's counterclaim.

Defendant does not seriously dispute that nearly all the documents it produced on September 13 were responsive to a 2007 discovery request and it provides little justification for failing to provide the documents in a timely manner. Instead, defendant argues that the late filing is harmless because the documents do not include any information that could be relevant to the case. In their reply brief, plaintiff lists numerous ways that it could have used

the documents, but it is difficult to tell from plaintiff's brief whether those matters are important to anything that remains to be tried.

In light of the serious nature of plaintiff's motion and the impending trial, a prompt hearing is necessary to resolve the motion. At the hearing, it will be defendant's burden to show that its untimely production has not caused undue prejudice to plaintiff.

#### ORDER

IT IS ORDERED that an in-person hearing on plaintiff Extreme Network, Inc.'s motion for sanctions, dkt. #573, will be held on Friday, October 7, 2011, at 9:00 a.m. in Courtroom 260.

Entered this 4th day of October, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge