EXHIBIT N

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, *et al.*, ***Plaintiffs*,** **v.** **AT&T INC., *et al.*,** ***Defendants*.**	**Case No. 1:11-cv-01560 (ESH)** **Referred to Special Master Levie**

SPECIAL MASTER ORDER NO. 2

Before the Special Master are Sprint Nextel Corp.'s Motion to Quash Subpoena, Defendant AT&T Inc.'s Opposition, Sprint's Reply, AT&T's Sur-Reply, Sprint's Response to AT&T's Sur-Reply, and the various declarations and exhibits submitted with the memoranda.[1] Upon review of the memoranda and supporting materials, the Special Master denies the Motion to Quash Subpoena and grants AT&T's Motion to Compel.

I. Procedural History

On September 26, 2011, AT&T served Sprint with a subpoena for production of documents pursuant to Fed. R. Civ. P. 45. [Motion to Compel, Ex. A. (9/26/2011 Subpoena) (Doc. 63-2)]. Sprint refused to respond to the subpoena, and AT&T filed a Motion to Compel on October 21, 2011. (Doc. 63). In accordance with the Special Master's request, Sprint and AT&T met and conferred on October 27, 2011, at which time AT&T generally stated it was seeking two categories of documents: those not already produced to the Department of Justice, and a

[1] The Sur-Reply and Response were served at the request of the Special Master.

"refresh" of the documents produced to the DOJ covering the past six months. [*See* Motion to Quash at 1 (Doc. 67); Opp. at 1, citing Ex. A (Table) (Docs. 69 & 69-1)]. Nevertheless, the meet and confer did not result in a resolution of the dispute over the subpoena. On October 28, Sprint filed its Motion to Quash Subpoena.

On October 29, 2011, the Special Master denied in part and deferred in part AT&T's Motion to Compel. [Special Master Order No. 1 (Doc. 68)]. In particular, the Special Master denied AT&T's request to compel the production of documents that Sprint had already produced to the DOJ, ordered that AT&T revise its subpoena to eliminate any requests for documents Sprint produced to DOJ, and deferred ruling on the remainder of the Motion to Compel pending consideration of the Motion to Quash.

AT&T completed its review of the DOJ production and provided an updated, narrowed request for documents. [Opp., Ex. A; Sur-Reply at 1, citing Benz Decl. of 11/4/11 at ¶2 (Docs. 73 & 73-1)].[2]

Sprint's Motion to Quash and the remainder of AT&T's Motion to Compel are now ripe for decision.

II. Discussion

Sprint presents several reasons for contending that AT&T's narrowed and "refresh" requests will be burdensome.[3] Sprint notes that the "sheer volume" of documents it will be forced to produce will impose a significant burden on Sprint. (Motion to Quash at 2). According

[2] Sprint claimed that AT&T had not complied with the Special Master's order to remove its request for duplicative documents and had not reviewed the Sprint documents in its possession. (Reply at 1, citing Emory Decl. of 11/3/11 at ¶¶7–11, 15–21). AT&T contested those claims and attested that it complied with the Special Master's order. (Benz Decl. of 11/4/11 at ¶¶2–5).

[3] Sprint also argues that it is AT&T's burden to identify which documents it is seeking are duplicative of those already produced to the DOJ. (Motion to Quash at 2). The Special Master has already ruled in Sprint's favor on this point in connection with AT&T's Motion to Compel. (Special Master Order No. 1 at 7).

to Sprint, it has already produced to the DOJ 2.2 million pages of documents across a wide range of subjects for the time period beginning in January 2009 and ending in April 2011. [Reinhart Decl. of 10/28/11 at ¶¶12, 14 (Doc. 67-3)]. Sprint asserts that AT&T's "refresh" request will cause Sprint to produce documents across these same subjects from May 2011 until the present. (*Id.* at ¶14). In Sprint's estimation, the exercise of refreshing will result in production of approximately 440,000 additional pages of documents, many of which will be protected by the attorney-client privilege and the work product doctrine. (*Id.* at ¶¶14–15). Sprint estimates that the "refresh" request will require a review of materials approximately one-fifth the amount of that in the DOJ production. [Emory Decl. of 11/3/11 at ¶ 31 (Doc. 70-1)].[4]

While Sprint notes the approximate number of attorney hours expended in connection with the DOJ production and the fact that the volume for the instant subpoena is approximately one-fifth that of the DOJ production, Sprint does not explicitly assert a specific number of attorney hours expected to be expended for compliance with the AT&T subpoena. [*Id*. at ¶¶ 30–31].

Sprint also claims that the "refresh" production will "generate numerous claims of privilege and work product protection" requiring "an unusually significant privilege review and logging effort," (Motion to Quash at 3; Reinhart Decl. of 10/28/11 at ¶15). Sprint asserts that these burdens will be undue in light of the large production Sprint has made already and the fact that Sprint's initial production lessens the utility of any additional production from Sprint.

In its Response to AT&T's Sur-Reply, Sprint presents some arguments that might be viewed as a refinement or an expansion of earlier arguments. For example, Sprint asserts that

[4] The Emory Declaration states that "approximately" 8,000 attorney hours were involved in the DOJ production. (Emory Decl. of 11/3/11 at ¶30). As the Special Master reads the Emory Declaration, it sets out the approximate hours expended in the DOJ production, the expectation that the "refresh" review will exceed the volume of the DOJ production since the SDT scope will involve new custodians for the additional documents, and the conclusion that "[i]ncreasing the number of custodians would substantially add to Sprint's burden." (*Id.* at ¶32).

AT&T has failed to justify why AT&T needs more information on topics already covered in the DOJ production or information from new custodians. Sprint also faults AT&T for not specifically indicating what AT&T needs from subjects covered by AT&T's request for a "refresh." [Response to Sur-Reply at 1–2 (Doc. 74)].

In the Reinhart Declaration, Sprint notes that some of the production already made relates to Boost Mobile and Virgin Mobile and involves two specific individuals associated with those entities. Sprint complains that some of the information now sought involves the same entities and individuals. [Reinhart Decl. of 11/5/11 at ¶¶4–6 (Doc. 74-1)]. Sprint takes issue with AT&T for not indicating why the production to DOJ is "insufficient to satisfy [AT&T's] needs." (*Id.* at ¶7). Sprint makes similar arguments with respect to Request No. 22 – Enterprise RFPS. (*Id.* at ¶¶ 9–12).

With respect to several other Requests (Nos. 31, 33–35), Sprint points out the number of document hits based on several variations of word searches conducted on documents already produced to DOJ. (*Id.* at ¶¶13–19). From each of these examples, Sprint argues that AT&T has failed to show why the DOJ production was not and is not sufficient to meet AT&T's needs. (*Id.*).

AT&T raises numerous arguments in support of its contention that Sprint has not met its "'heavy burden'" of showing that it is entitled to be relieved of compliance with AT&T's narrowed requests. [Opp. at 1, quoting *Irons v. Karceski*, 74 F.3d 1262, 1264 (D.C. Cir. 1995) (*per curiam*)].

First, AT&T asserts that Sprint has overstated the amount of documents it will be compelled to produce. By AT&T's count, Sprint produced only 792,029 pages of documents plus "databases containing data that cannot meaningfully be measured in pages." [Opp. at 2,

citing Benz Decl. of 10/31/11 at ¶10 (Doc. 69-2)]. Of the first category, more than 178,000 pages are merely duplicates. (Benz Decl. of 10/31/11 at ¶12). The "raw data" in the latter category accounts for 1.4 million pages of the material produced to the DOJ. (*Id.* at ¶10). Discounting the pages of raw data and applying Sprint's method of estimation, AT&T concludes that its "refresh" request would call for only 158,406 pages. (Opp. at 2).[5]

Second, AT&T argues that Sprint has failed to show that satisfying the narrowed request, which primarily calls for a "refresh" of document categories already provided, will "impose on [Sprint] any particularized hardship not shared by the many other wireless service providers that have dutifully complied with AT&T and DOJ subpoenas." (*Id.* at 1).

Third, AT&T notes that "[n]o precedent supports wholesale rejection of a subpoena because some responsive documents may be privileged." *(Id.* at 2). AT&T states that it is willing to negotiate with Sprint on ways in which the burden of preparing a privilege log can be minimized. (*Id.*).

Fourth, AT&T contends that the "refresh" documents it is seeking "are among the materials most relevant and important to the issues in this case" as they provide the most recent information concerning Sprint's market position. (*Id.*). Also, AT&T claims it should not be limited by Sprint's production to the DOJ inasmuch as that production satisfied only the DOJ's needs and interests. *(Id.* at 3).

In its Sur-Reply, AT&T asserts that Sprint's production "did not appear to include documents from key custodians in the Business and Government group, or a sufficient amount of data from [Sprint's] subscriber databases," and that the production to DOJ "contains few documents describing the specific business plans or strategies for Boost Mobile and Virgin Mobile." (Benz Decl. of 11/4/11 at ¶¶ 3, 5).

[5] Sprint takes issue with AT&T's calculations. (Emory Decl. of 11/3/11 at ¶¶24–29).

Responding to Sprint's burden arguments, AT&T contends that the requests in the AT&T subpoena are "substantially narrower than DOJ's CID and that Sprint's prior experience would likely make the updated review process more efficient." (*Id.* at ¶6).

Seeking further support for asserting relevance and need for the documents sought, AT&T posits that

> [t]he documents sought by AT&T, moreover, are among the materials most relevant and critical to the issues in this case, given the extraordinarily dynamic nature of the industry and Sprint's key role in the industry. They will include documents concerning Sprint's recent launch of the iPhone on October 14, 2011; Sprint's October 26, 2011 announcement that, in the third quarter of 2011, it achieved the highest total company wireless net subscriber additions in more than five years; and Sprint's numerous recent announcements about the future of its network, its path to LTE, and its relationship with Clearwire – all issues that bear directly on the competitive landscape issues underlying DOJ's claims. The documents sought will demonstrate that Sprint is a strong and vibrant competitor – a fact that is critical to AT&T's defense of DOJ's claim that the challenged merger would dampen competition in the mobile wireless industry.

[*Id.* (citations omitted)].

III. Law and Analysis

The scope of Rule 45 is constrained only by the scope of Rule 26(b)(1), which permits the discovery of any "relevant" information. [*See Coleman v. Dist. of Columbia,* 275 F.R.D. 33, 36 (D.D.C. 2011); Fed. R. Civ. P. 26(b)(1)]. In this case, Sprint does not challenge the relevance of the information AT&T seeks. Instead, Sprint claims that the subpoena must be quashed as unduly burdensome.

Rule 45(c) safeguards non-parties' resources by obliging the issuing party to "take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena" and by mandating that any unduly burdensome subpoenas be quashed. [Fed. R. Civ. P. 45(c)(1), 45(c)(3)(A)(iv)].

AT&T's recent efforts to narrow its subpoena satisfy its obligation to "take reasonable steps" to reduce Sprint's burden of production. [Fed. R. Civ. P. 46(c)(1); *see also* Opp., Ex A (Table)]. Of its initial forty-seven requests, AT&T has withdrawn twelve requests as satisfied [Nos. 1, 13, 14, 15, 17, 24, 30, 32, 36, 39, 44 & 47];[6] withdrawn one request as satisfied pending the occurrence of specified conditions [No. 2]; and withdrawn five requests as a compromise [Nos. 25–28, 37].

Of the remaining twenty-nine requests, AT&T has identified eleven it wants Sprint to update to the present. [Nos. 3, 4, 12, 16, 19, 23, 29, 38, 42, 45, & 46]. For these ten requests AT&T is seeking supplemental information, as well as an update to the present:

1) "All documents analyzing, discussing, or assessing T-Mobile's competitive position or significance" [No. 6];

2) "All documents regarding the Company's efforts . . . to target or solicit T-Mobile customers" [No. 7];

3) "All documents relating to any actual or proposed competitive response by the Company . . . to T-Mobile's" consumer offerings [No. 8];

4) "All documents relating to any actual or proposed competitive response by the Company" to the offerings of other wireless providers [No. 9];

5) "All business plans or other strategic plans relating to the Company's mobile wireless services" [No. 10];

6) "All documents relating to the Company's ability to compete" with other wireless providers [No. 11];

7) "All documents relating to any proposed or actual network capacity sharing or leasing arrangements by the Company" [No. 31];

8) "Documents sufficient to show in detail the Company's relationship with Clearwire"

[6] In its Opposition to the Motion to Quash AT&T identified No. 14 as a request meriting supplementation and an update. [*See* Opp., Ex A (Table)]. In its Sur-Reply, however, AT&T withdrew No. 14 as satisfied based on Sprint's representation. (Sur-Reply at 1 n.*). In the same footnote noting satisfaction with the production and representation regarding No. 14, AT&T points to the fact that only one year of subscriber data was produced. (*Id.*) "AT&T as a compromise proposal requests that Sprint provide one additional year of subscriber date, going back to mid-2009." (*Id.*). Having agreed to treat this request as satisfied and Sprint having viewed it as satisfied, there does not appear any basis to make the satisfaction dependent on a proposed compromise. Request No. 14 is treated as satisfied.

[No. 33];

9) "All documents relating to the Company's plans with respect to Clearwire" [No. 34]; and

10) Documents "reflecting negotiations with device manufacturers relating to exclusive or preferential rights for current or future device offerings" [No. 35].

AT&T is seeking an update to the present plus information from May 2009 through April 2010 for three requests:

1) "Documents sufficient to show the number of subscribers and share of subscribers . . . for the Company and any other mobile wireless service providers" [No. 40];

2) Documents regarding "additions" [No. 41]; and

3) Documents regarding the Company's and its brands' revenue [No. 43].

AT&T also has identified three requests for which it asks Sprint to supplement its DOJ production with information from May 2009 to April 2010. [Nos. 18, 20 & 21]. Those requests seek information related to Sprint's wireless plan pricing and specialized customers. Finally, it has identified two requests for which it seeks specific supplementation but not an update to the present. [Nos. 5 & 22]. These requests seek documents relating to transactions with other mobile wireless providers and documents evidencing bids for business or government services.

Despite AT&T's significant narrowing of its initial subpoena, Sprint contends that compliance with the modified requests still poses an undue burden. To determine whether a burden is "undue," courts consider the factors set forth in Rule 26. *Watts v. SEC,* 482 F.3d 501, 509 (D.C. Cir. 2007). Rule 26(b)(2)(C)(iii) limits discovery if "the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the action, and the

importance of the discovery in resolving the issues."[7] The party opposing a motion to compel carries a "heavy" burden of persuasion. *Id.; see also Linder v. Dep't of Defense,* 133 F.3d 17, 24 (D.C. Cir. 1998). A court considering a claim of burdensomeness has broad discretion. *Northrop Corp. v. McDonnell Douglas Corp.,* 751 F.2d 395, 403 (D.C. Cir. 1984).

A. Burden of the Proposed Discovery

A precondition to assessing the burdens of the discovery against its benefits is a consideration of what the burdens are likely to be. Sprint and AT&T have proposed vastly different calculations for the amount of materials Sprint will have to produce if it complies with the subpoena. The Special Master is not inclined to parse and micro-analyze the calculations made by AT&T or Sprint. There is no question that Sprint produced a large volume of materials to DOJ, but that work is completed. It is not helpful to deciding the present issue to go back and give or deduct legal credits for the DOJ production. The more appropriate focus for any discussion of burden is looking forward. Accepting Sprint's evidence, the Special Master concludes that the new production is likely to result in approximately 440,000 pages of documents.

The Special Master does not find that Sprint sufficiently has carried its heavy burden with respect to additional costs. Sprint does not support its reference to a "substantial burden" by convincing facts. In both a relative and absolute sense, 440,000 pages of documents are not overwhelming. Sprint has not produced a persuasive and detailed factual record regarding legal costs or costs in person-power for the refreshed review, and the mere facts of involvement of some additional custodians or some amount of necessary legal review are insufficient to

[7] Rule 26(b)(2)(C) also limits discovery if it is "unreasonably cumulative or duplicative"; if the discovery "can be obtained from some other source that is more convenient, less burdensome, or less expensive"; or if "the party seeking discovery has had ample opportunity to obtain the information by discovery in the action." [Fed. R. Civ. P. 26(b)(2)(C)(i)–(ii)]. These factors are not claimed to be applicable to the current dispute.

demonstrate undue burden. Indeed, AT&T's argument that Sprint presumably developed some efficiencies in production based upon its previous work for the DOJ production has common-sense appeal and is not dispelled by the current record.

Moreover, pointing to some limited individual documents or the number of "hits" based on word searches does not establish a sufficient showing of undue burden justifying the quashing of the AT&T subpoena. (*See* Reinhart Decl. of 11/5/11 at ¶¶13–19). Showing that Sprint has already produced some responsive material neither proves that Sprint has produced all responsive material nor that it will be unduly burdensome for Sprint to complete the production.

As for Sprint's argument that AT&T "has not shown that the existing production is insufficient to satisfy [AT&T's] needs," (*id.*), the obligation is on the responding party to show that a subpoena should be quashed, not on the serving party to show that the subpoena is necessary*, see Linder*, 133 F.3d at 24; *Northrop Corp.*, 751 F.2d at 403; *Call of the Wild Movie, LLC v. Does*, 770 F. Supp. 2d 332, 354 (D.D.C. 2011). There is no requirement that AT&T demonstrate to Sprint's satisfaction that the legal theories AT&T wishes to consider require documents beyond those supplied to DOJ—particularly in light of the fact that the CID reflected DOJ's determination as to what documents and information DOJ needed to potentially prosecute an antitrust case against AT&T.

The Special Master also is not persuaded by an undefined estimation of the proposed burden arising from the hours and expense associated with asserting claims of privilege. It is not appropriate to make a ruling on a motion to quash based on the future possibility that the Special Master will find some number of responsive documents to be privileged, and Sprint has not provided any persuasive authority to support a pre-emptive granting of the Motion to Quash based on this assertion. Any privilege matters will be taken up by the Special Master in due

course through the standard procedures with the filing of a Rule 45(d)(2) privilege log, which is "the universally accepted means of asserting privileges in discovery in the federal courts." *Avery Dennison Corp. v. Four Pillars*, 190 F.R.D. 1, 1 (D.D.C. 1999). The Special Master will deal with any challenges to claims of privilege or work product protection and will work with Sprint and AT&T to consider use of categorization and sampling, if necessary, to reduce the time needed for privilege review. *See Northrop Corp.*, 751 F.2d at 405.

B. Needs of the Case

There is a need for the discovery in this case to conclude within the tight schedule already established. The Special Master is concerned, as is the Court, that AT&T's subpoena "isn't typical for a case that's on a two-month trial" schedule. (Tr. of 10/24/11 hearing at 105:2–3). AT&T, however, has narrowed its initial subpoena, decreasing the likelihood that sorting through Sprint's production will derail discovery. In any event, AT&T is accepting the risks to the trial timeline coming from any failure to further narrow the reach of its subpoena. (*Id.* at 105:17–19).

Balanced against the need for an orderly and swift completion of the discovery phase of this case is the need for the matter to be resolved on the merits. *See Call of the Wild Movie, LLC*, 770 F. Supp. 2d at 354. As discussed below, the discovery at issue is important for the case.

C. Amount in Controversy

The parties have not argued this factor, and the Special Master deems it irrelevant.

D. Parties' Resources

As stated above, Sprint has provided estimates of the burdens that the requested discovery will impose upon it. Sprint has not argued the size of those burdens in relation to its resources, nor has either party submitted information on this factor. The Special Master therefore

concludes that this factor does not favor Sprint.

E. Importance of the Issues at Stake

The issues at stake in this litigation impact not just the financial prospects of the Defendants but the rights of consumers to a competitive market. *See Ford Motor Co. v. U. S.*, 405 U.S. 562, 578 (1972). Thus resolution of the matter on the merits and with full information available to the parties to the case gains an additional level of importance. This factor weighs against Sprint's Motion to Quash.

F. Importance of the Discovery in Resolving the Issues

AT&T has presented convincing arguments that the "refresh" documents are very important to its probable defense. The DOJ production is now more than sixth months old and will be nine months old by the time of trial. Although antitrust cases inherently "involve[] predictions and assumptions concerning future economic and business events," *Ford Motor Co.*, 405 U.S. at 578, those predictions are "sound only if [they are] based upon a firm understanding of the structure of the relevant market," *United States v. Philadelphia Nat'l Bank*, 374 U.S. 321, 362 (1963).

All markets are dynamic, but technology markets are notoriously volatile and, hence, very dynamic. *See United States v. Microsoft Corp.*, 253 F.3d 34, 49 (D.C. Cir. 2001). For example, Sprint has acquired the right to distribute the iPhone since its production to the DOJ. [Opp. at 2–3, citing Benz Decl. of 11/2/11, Exs. 1–2 (10/14/11 & 10/26/11 News Releases)]. The "launch of this iconic device resulted in Sprint's best ever day of sales . . . for a device family in Sprint history." (Benz. Decl. of 11/2/11, Ex. 2). AT&T is entitled to discover what effect the iPhone and other events of the past few months have had on Sprint's relevant market share, a part of the Government's *prima facie* case. *See F.T.C. v. H.J. Heinz Co.*, 246 F.3d 708, 715 (D.C.

Cir. 2001). As AT&T persuasively argues, "[w]ithout the updates, Sprint's document production will not accurately reflect the current (or future) state of competition." (Sur-Reply at 2).

Because granting Sprint's Motion to Quash will arbitrarily and prematurely cut off the flow of relevant and highly probative data to AT&T and the Court, the Special Master finds that the importance of the requested discovery weighs against Sprint's Motion.

G. Burdens Against Benefits

The Special Master is not ignoring Sprint's assertions regarding the burdens it will be obliged to bear if it were to comply with AT&T's subpoena. The importance and benefits of the subpoena, however, outweigh those burdens, even giving special consideration to Sprint's non-party status. AT&T already has narrowed its production requests to seek only those non-duplicative documents central to the case and to eliminate other requests from the scope of its subpoena, reducing Sprint's burdens.

The public's interest in a just resolution of this antitrust suit demands that the snapshot of market information presented to the Court at trial include the most recent information available. Sprint has not met its heavy burden of proving that the Rule 26(b)(2)(C)(iii) factors warrant quashing AT&T's narrowed subpoena requests.

IV. Conclusion

For the reasons stated above, the Special Master

ORDERS that the Motion to Quash Subpoena is denied; and it is

FURTHER ORDERED that AT&T's Motion to Compel is granted as modified by Special Master Order No. 1; and it is

FURTHER ORDERED that Requests Nos. 1, 13, 14, 15, 17, 24, 30, 32, 36, 39, 44 and 47 are withdrawn as satisfied; and it is

FURTHER ORDERED that Requests Nos. 25–28 and 37 are withdrawn as a compromise; and it is

FURTHER ORDERED that no later than November 21, 2011,[8] Sprint shall either make the representation in connection with Request No. 2 that everything it provided to the FCC is included in the DOJ production, or shall produce the requested documents; and it is

FURTHER ORDERED that no later than November 21, 2011, Sprint shall update to the present[9] its production for Requests Nos. 3, 4, 12, 16, 19, 23, 29, 38, 42, 45, and 46; and it is

FURTHER ORDERED that no later than November 21, 2011, Sprint shall provide the supplemental information sought in Requests Nos. 6–11, 31, and 33–35 and shall update to the present the information sought in those Requests; and it is

FURTHER ORDERED that no later than November 21, 2011, Sprint shall update to the present its production for Requests Nos. 40, 41 and 43 and shall supplement its production to those requests with information from May 2009 through April 2010; and it is

FURTHER ORDERED that no later than November 21, 2011, Sprint shall supplement its production to Requests Nos. 18, 20, and 21 with information from May 2009 through April 2010; and it is

FURTHER ORDERED that no later than November 21, 2011, Sprint shall provide the supplemental information sought in Requests Nos. 5 and 22; and it is

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[8] In selecting a production date, the Special Master is mindful of the need for production of the information in a timely fashion given the schedule for the underlying case. As with selection of a date for AT&T to have reviewed its subpoena to identify areas involving documents already produced to AT&T via DOJ, the Special Master is aware that the parties have been sitting on these matters while the motions were being litigated and that parties must assume the risk that an order of production will involve a prompt compliance date. Although not wanting to compel parties to incur unnecessary time and expense to prepare for production in the event a motion to quash or limit is not granted or is only granted in part, the requirements of the parties in the underlying litigation and otherwise normal litigation risks warrant the timelines ordered.

[9] As used in this Order, "update to the present" shall mean the earlier of November 21, 2011 or the date of compliance unless AT&T notifies Sprint that a date other than the earlier of November 21 or the date of compliance is acceptable to AT&T.

FURTHER ORDERED that Sprint shall produce a privilege log by November 21, 2011; and it is

FURTHER ORDERED that Sprint and AT&T may agree upon different compliance dates, or a series of rolling compliance dates, for the responsive production and privilege log so long as the discovery is produced or privilege/work production protection is asserted in a timely fashion so as not to affect trial preparation and to permit resolution of any disputes based upon assertions of privilege or work product protection.

Date: November 6, 2011

/s/ Richard A. Levie_____
Hon. Richard A. Levie (Ret.)
Special Master