UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ARISTA NETWORKS, INC.,
Petitioner

v.

CISCO SYSTEMS, INC.,
Patent Owner

———————

Case IPR2016-00309
Patent 7,224,668

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**PETITIONER'S CORRECTED NOTICE OF
OBJECTIONS TO EVIDENCE**

Pursuant to 37 C.F.R. § 42.64(b)(1), meet and confers of counsel of record, and the February 7, 2017 telephonic hearing with the Patent Trial and Appeal Board, Petitioner, Arista Networks, Inc., ("Petitioner"), hereby submits its corrected notice of objections to certain exhibits which Patent Owner, Cisco Systems, Inc. ("Cisco" or "Patent Owner"), submitted in its Patent Owner Response filed September 30, 2016, in connection with IPR2016-00309.

Petitioner renews its objections to Exhibits 2001 through 2004 and incorporates here by reference Petitioner's Notice of Objections to Evidence (June 24, 2016).

Patent Owner Exhibit No. 2016 (Control Plane Policing Implementation Best Practices, Cisco Systems, November 11, 2014)

Petitioner objects to Exhibit No. 2016 under the following Federal Rules of Evidence:

Petitioner objects to Exhibit 2016 under FRE 401 and 402 as irrelevant and therefore inadmissible.

Patent Owner Exhibit No. 2017 (Cisco Nexus 7000 Series NX-OS Security Config. Guide, Release 6.x, Cisco Systems, First Published July 27, 2012, Last Modified April 16, 2014)

Petitioner objects to Exhibit No. 2017 under the following Federal Rules of Evidence:

Petitioner objects to Exhibit 2017 under FRE 401 and 402 as irrelevant and therefore inadmissible.

Patent Owner Exhibit No. 2018 (Cisco IOS Software Configuration Guide, Release 12.2(33)SXH, Cisco Systems)

Petitioner objects to Exhibit No. 2018 under the following Federal Rules of Evidence:

Petitioner objects to Exhibit 2018 under FRE 401 and 402 as irrelevant and therefore inadmissible.

Patent Owner Exhibit No. 2019 (Infrastructure Protection on Cisco IOS Software-Based Platforms, Cisco Systems, 2006)

Petitioner objects to Exhibit No. 2019 under the following Federal Rules of Evidence:

Petitioner objects to Exhibit 2019 under FRE 401 and 402 as irrelevant and therefore inadmissible.

Patent Owner Exhibit No. 2020 (Cisco Nexus 7000 Series NX-OS Quality of Service Configuration Guide, Cisco Systems, April 2014)

Petitioner objects to Exhibit No. 2020 under the following Federal Rules of Evidence:

Petitioner objects to Exhibit 2020 under FRE 401 and 402 as irrelevant and therefore inadmissible.

Patent Owner Exhibit No. 2021 (Cisco IOS Quality of Service Solutions Configuration Guide, Release 12.2)

Petitioner objects to Exhibit No. 2021 under the following Federal Rules of Evidence:

Petitioner objects to Exhibit 2021 under FRE 401 and 402 as irrelevant and therefore inadmissible.

Patent Owner Exhibit No. 2022 (Deploying Control Plane Policing, Cisco Systems, 2005)

Petitioner objects to Exhibit No. 2022 under the following Federal Rules of Evidence:

Petitioner objects to Exhibit 2022 under FRE 401 and 402 as irrelevant and therefore inadmissible.

Patent Owner Exhibit No. 2023 (CoPP on Nexus 7000 Series Switches, Viral Bhutta, Cisco TAC Engineer, September 4, 2014)

Petitioner objects to Exhibit No. 2023 under the following Federal Rules of Evidence:

Petitioner objects to Exhibit 2023 under FRE 401 and 402 as irrelevant and therefore inadmissible.

Patent Owner Exhibit No. 2032 (Examples of Arista's Copying of Cisco's Command Expressions)

Petitioner objects to Exhibit No. 2032 under the following Federal Rules of Evidence:

Petitioner objects to Exhibit 2032 under FRE 401 and 402 as irrelevant and therefore inadmissible. Patent Owner seeks to use Exhibit 2032 as evidence of product command-line expressions. This is not relevant to any of the issues in this proceeding, as none of the challenged claims requires any particular product command-line expression.

Petitioner further objects to Exhibit 2032 under FRE 403 because any relevance it may have is outweighed by the risk of causing unfair prejudice, wasting time, and confusing the Board. In particular, Patent Owner relies on Exhibit 2032 solely to support its contentions regarding secondary considerations of nonobviousness, but none of the challenged claims requires the command-line expressions described in Exhibit 2032. Because evidence of secondary considerations of nonobviousness, including evidence of alleged copying, must be tied to the subject matter of the patent claims, evidence of such unclaimed functionality is not relevant to the Board's analysis of whether the disclosure of the Amara, CoreBuilder, Moberg, and/or Hendel references invalidate claims of the '668 patent. Thus, Patent Owner's use of Exhibit 2032 appears to be designed solely to cause unfair prejudice, waste time, and confuse the Board with allegations from an unrelated litigation between the parties.

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