

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

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Case IPR2016-00309  
Patent No. 7,224,668

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**PATENT OWNER'S OBJECTIONS TO  
PETITIONER'S EVIDENCE PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

***Mail Stop "PATENT BOARD"***  
Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Patent Owner Cisco Systems, Inc. objects to the admissibility of the following evidence Petitioner Arista Networks, Inc. submitted before the institution of the trial. 37 C.F.R. § 42.64(b)(1). These objections are made within ten business days from the Decision to Institute issued on June 11, 2016. Patent Owner asks the Patent Trial and Appeal Board to deny admission and consideration of the following documents on the following bases:

**1. Exhibit 1002: Lin Declaration**

Patent Owner objects to this document to the extent Petitioner relies on the exhibits cited therein for the truth of the matter asserted. Patent Owner objects to such contents as inadmissible hearsay under FRE 801 and 802.

Patent Owner objects to the Lin Declaration because there has not been an adequate showing that his testimony is the product of reliable facts or data and there is no indication that the testimony will help the Board understand the evidence or determine a fact in issue. FRE 401, 403, 702.

Patent Owner objects to the Lin Declaration to the extent it relies on Exhibits 1006, 1008, and 1009 because they are inadmissible under FRE 401, 402, 403, 801, 801, 901, 902, 1002, 1003, and 1004, as discussed below, and/or are inadmissible as not qualified to be the basis for an expert opinion under FRE 703. Further, Petitioner has not established that these exhibits reasonably would be

relied upon by experts in the field. Therefore, these portions of the Lin Declaration are inadmissible under FRE 702 and FRE 703.

Patent Owner objects to ¶¶ 76-89 of the Lin Declaration as irrelevant under FRE 401 and thus inadmissible under FRE 402, or as confusing or a waste of time under FRE 403, because they are not relevant to any issue remaining in this proceeding, such as patentability of the subject matter, broadest reasonable interpretation of the claims, or obviousness of the claims in view of the prior art.

**2. Exhibit 1006: U.S. Patent No. 6,970,943 (“Subramanian”)**

Patent Owner objects to this document as irrelevant under FRE 401 and thus inadmissible under FRE 402, or as confusing or a waste of time under FRE 403, because it is not relevant to any issue remaining in this proceeding, such as patentability of the subject matter, broadest reasonable interpretation of the claims, or obviousness of the claims in view of the prior art.

**3. Exhibit 1008: IETF RFC 2661, “Layer Two Tunneling Protocol ‘L2TP’” (“IETF RFC 2661”)**

Patent Owner objects to this document as irrelevant under FRE 401 and thus inadmissible under FRE 402, or as confusing or a waste of time under FRE 403, because it is not relevant to any issue remaining in this proceeding, such as patentability of the subject matter, broadest reasonable interpretation of the claims, or obviousness of the claims in view of the prior art.

Patent Owner objects to the admission of Exhibit 1008 as irrelevant to these proceedings because Petitioner has not established that Exhibit 1008 qualifies as a prior art publication under 35 U.S.C. § 102(b). Because Petitioner did not offer competent evidence to show that Exhibit 1008 was publicly available before the earliest priority date of the '668 patent, November 7, 2002, Petitioner has not established that Exhibit 1008 is a prior art printed publication eligible for this IPR proceeding, rendering the Exhibit 1008 reference irrelevant to these proceedings pursuant to FRE 401 and inadmissible under FRE 402.

To the extent Petitioner relies on the contents of this document for the truth of the matter asserted, Patent Owner objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805 or 807. Specifically, to the extent that Petitioner relies on dates contained within Exhibit 1008, those dates are hearsay under FRE 801 and inadmissible under FRE 802.

Patent Owner objects to this document as not properly authenticated under FRE 901 because Petitioner has not presented any evidence that the document is authentic nor that the document is self-authenticating under FRE 902.

To the extent Petitioner relies on the contents of this document to prove the content of the original document, Patent Owner objects to this document as not being an original document under FRE 1002, an authentic duplicate under FRE

1003, nor a document that falls under any exceptions to the original-document requirement, including those of FRE 1004.

**4. Exhibit 1009: 3Com CoreBuilder 3500 Implementation Guide, 3Com MSD Technical Publications, November 1999 (“CoreBuilder”)**

Patent Owner objects to the admission of Exhibit 1009 as irrelevant to these proceedings because Petitioner has not established that Exhibit 1009 qualifies as a prior art publication under 35 U.S.C. § 102(b). Because Petitioner did not offer competent evidence to show that Exhibit 1009 was publicly available before the earliest priority date of the '668 patent, November 7, 2002, Petitioner has not established that Exhibit 1009 is a prior art printed publication eligible for this IPR proceeding, rendering the Exhibit 1009 reference irrelevant to these proceedings pursuant to FRE 401 and inadmissible under FRE 402.

To the extent Petitioner relies on the contents of this document for the truth of the matter asserted, Patent Owner objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805 or 807. Specifically, to the extent that Petitioner relies on dates contained within Exhibit 1009, those dates are hearsay under FRE 801 and inadmissible under FRE 802.

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