

Filed on behalf of Petitioner
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PROOFPOINT, INC. AND
ARMORIZE TECHNOLOGIES, INC.
Petitioner

v.

FINJAN, INC.
Patent Owner

IPR2016-00967
U.S. Patent No. 8,225,408

**MOTION FOR JOINDER UNDER
35 U.S.C. § 315(c) AND 37 C.F.R. §§ 42.22 AND 42.122(b)
TO *INTER PARTES* REVIEW OF IPR2015-02001**

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I. STATEMENT OF PRECISE RELIEF REQUESTED

Proofpoint, Inc. and Armorize Technologies, Inc. (“Petitioner”) respectfully submits this Motion for Joinder, together with a petition (the “Proofpoint Petition”) for *Inter Partes* Review of U.S. Patent No. 8,225,408 (the “‘408 patent”) filed contemporaneously herewith. Pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b), Petitioner requests institution of an *inter partes* review and joinder with IPR2015-02001 filed by Palo Alto Networks, Inc. (“PAN”), which was instituted and consolidated with PAN’s IPR2016-00157 on March 29, 2016 concerning the same ‘408 patent (together the “Consolidated PAN IPRs”). The Proofpoint Petition duplicates the grounds in IPR2015-02001. Petitioner timely filed the Proofpoint Petition and this motion within one month of the institution of the PAN IPR. 37 C.F.R. § 42.122(b). Petitioner is also concurrently filing a second petition duplicating the grounds in IPR2016-00157 together with a motion requesting joinder in the Consolidated PAN IPRs.

Joinder will efficiently resolve the challenges to the ‘408 patent in the Consolidated PAN IPRs, and will neither impact the substantive issues or schedule in those proceedings, nor prejudice the parties. The Proofpoint Petition raises the same grounds of unpatentability for which PAN’s IPR2015-02001 was instituted, challenges the same claims, and relies on the same prior art, arguments and evidence presented by PAN in IPR2015-02001. Similarly, Proofpoint’s second peti-

tion concerning the '408 patent raises the same grounds of unpatentability for which IPR2016-00157 was instituted, challenges the same claims, and relies on the same prior art, arguments and evidence presented by PAN in IPR2016-00157. In addition, Petitioner explicitly agrees to consolidated discovery and briefing as described below, and is willing to accept a limited role with PAN's counsel acting as the lead counsel as long as PAN remains in the proceedings.¹ Accordingly, Petitioner submits that joinder is appropriate because it will not prejudice the parties or impact the substantive issues and schedule in the Consolidated PAN IPRs, while efficiently resolving the question of the '408 patent's validity based on the instituted grounds in those consolidated proceedings.

II. STATEMENT OF MATERIAL FACTS

1. The '408 patent is entitled "Method and system for adaptive rule-based content scanners" and lists Moshe Rubin *et al.* as inventors. The '408 patent

¹ Petitioner notes that on April 27, 2016, Blue Coat Systems, Inc. ("Blue Coat") also filed a motion requesting joinder to the PAN IPRs (IPR2016-00955 and 2016-00956). In the event that Blue Coat's motion for joinder are granted, Petitioner agrees to the same procedures for simplified briefing and discovery discussed herein and, in the event that PAN settles with Patent Owner, Petitioner agrees to work with Blue Coat to determine which counsel will replace PAN's counsel as the lead counsel in the proceedings.

issued on July 17, 2012. Finjan, Inc. (the “Patent Owner”) is believed to have all rights, title, and interest in ‘408 patent.

2. On December 16, 2013, Patent Owner filed a civil action asserting the ‘408 patent, along with other patents, against Proofpoint, Inc. and Armorize Technologies, Inc. in Civil Action No. 3:13-cv-05808. A jury trial concerning the patents that remain in this suit is currently scheduled for June 13, 2016.

3. On November 4, 2014, Patent Owner filed a civil action asserting the ‘408 patent, along with other patents, against PAN in Civil Action No. 3:14-cv-04908.

4. On September 30, 2015, PAN filed a petition for *inter partes* review requesting cancellation of claims 1, 9, 22, 23, 29, and 35 of the ‘408 patent (the “PAN Petition”), which was subsequently assigned Case No. IPR2015-02001.

5. On November 6, 2015, PAN filed a petition for *inter partes* review requesting cancellation of claims 1, 3-7, 9, 12-16, and 18-21 of the ‘408 patent, which was subsequently assigned Case No. IPR2016-00157.²

² Petitioner notes that PAN’s petition in IPR2016-00157 initially omitted claims 1 and 9 from the specified challenge. The Board, however, indicated that claims 1 and 9 were also subject to review due to the dependence of the listed challenged claims on claims 1 and 9. *Palo Alto Networks, Inc. v. Finjan, Inc.*, IPR2016-00157, paper 3 at 1 (PTAB November 17, 2015).

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