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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO, INC.
Petitioner

v.

TQ DELTA, LLC
Patent Owner

Case No. IPR2016-01009
Patent No. 8,238,412

PATENT OWNER'S PRELIMINARY RESPONSE

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I. INTRODUCTION

Patent Owner TQ Delta, LLC ("Patent Owner") submits this preliminary response to the Petition filed by Cisco, Inc. ("Cisco" or "Petitioner") requesting *inter partes* review of claims 9-12, 15-18, and 21 of U.S. Pat. No. 8,238,412 ("the '412 patent").

This is the third IPR Petition filed against the '412 patent (and the second petition against the '412 patent filed by Petitioner Cisco[1]). The first petition, filed in IPR2016-00430 by Arris Group, Inc. (a party similarly situated with Cisco as a supplier of products accused of infringement in the related litigation identified in the Petition), was recently denied institution by the Board. (*See* IPR2016-00430 at Paper 9, Decision Denying Institution.) In that decision, the Board found that Arris had (1) failed to show that the asserted prior art disclosed all limitations of the claims of the '412 patent (including the same claims challenged here), and/or (2) failed to provide sufficient rationale to support obviousness. (*See id*.)

Now, Cisco is attempting another bite at the apple of attacking the '412 patent, but using different prior art references than those asserted by Arris. This Petition, however, is deficient for similar reasons. Here, Petitioner Cisco raises a

[1] Cisco also filed a petition in IPR2016-001008, challenging claims 1-8, 13-14, and 19 of the '412 patent.

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