

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JUNIPER NETWORKS, INC. & PALO ALTO NETWORKS, INC.,
Petitioner,

v.

PACKET INTELLIGENCE LLC,
Patent Owner.

IPR2020-00335 (Patent 6,651,099 B1) IPR2020-00336 (Patent 6,665,725 B1)
IPR2020-00337 (Patent 6,771,646 B1) IPR2020-00338 (Patent 6,839,751 B1)
IPR2020-00339 (Patent 6,954,789 B2) IPR2020-00485 (Patent 6,651,099 B1)
IPR2020-00486 (Patent 6,954,789 B2)¹

Before STACEY G. WHITE, CHARLES J. BOUDREAU, JOHN D.
HAMANN, and KRISTI L. R. SAWERT, *Administrative Patent Judges*.

SAWERT, *Administrative Patent Judge*.

ORDER

*Granting Petitioner's Request for Authorization to File Motion to Disqualify
and Motion to Seal
37 C.F.R. § 42.5*

¹ We exercise our discretion to enter a single order to be entered in each case. For convenience, we refer to the exhibit numbers entered in IPR2020-00335. The parties are not permitted to use this caption. This is not an expanded panel. The panel for IPR2020-00335, -00336, -00337, and -00485 includes Judges White, Boudreau, and Hamann. The panel for IPR2020-00338, -00339, and -00485 includes Judges Boudreau, Hamann, and Sawert.

IPR2020-00335 (Patent 6,651,099 B1) IPR2020-00336 (Patent 6,665,725 B1)
IPR2020-00337 (Patent 6,771,646 B1) IPR2020-00338 (Patent 6,839,751 B1)
IPR2020-00339 (Patent 6,954,789 B2) IPR2020-00485 (Patent 6,651,099 B1)
IPR2020-00486 (Patent 6,954,789 B2)

On July 6, 2020, counsel for Petitioner Juniper Networks, Inc. (“Juniper”²) contacted the Board via email to request a conference call seeking authorization to file a motion to disqualify Patent Owner’s declarant, Kevin C. Almeroth, Ph.D., in the above-identified proceedings. *See* Ex. 3003. Juniper states that it “previously retained Dr. Almeroth and supplied him with confidential and privileged information relevant to these [*inter partes* reviews].” *Id.* Juniper states that it has also filed a motion to disqualify Dr. Almeroth in a related district-court proceeding between the parties captioned *Packet Intelligence LLC v. Juniper Networks, Inc.*, Case No. 3:19-cv-04741-WHO (N.D. Cal.). According to Juniper, that motion is pending.

Juniper also states that it “anticipates that it will need to file confidential information along with its motion and seeks authorization to file a Protective Order allowing confidential information to be designated as Attorneys’ Eyes Only.” *Id.* Juniper states that it conferred with Patent Owner, and that Patent Owner opposes both its request to file a motion to disqualify and its request to file a protective order.

The panels have conferred and determined that a conference call is not necessary. Juniper is authorized to file a motion to disqualify Dr. Almeroth in these proceedings. Juniper is also authorized to file a motion to seal in accordance with 37 C.F.R. § 42.55 with a proposed protective order concurrently with its motion to disqualify. *See also* PTAB Consolidated

² Palo Alto Networks, Inc. is also a Petitioner in these proceedings but does not appear to be a party to Juniper’s request. *See* Ex. 3003.

IPR2020-00335 (Patent 6,651,099 B1) IPR2020-00336 (Patent 6,665,725 B1)
IPR2020-00337 (Patent 6,771,646 B1) IPR2020-00338 (Patent 6,839,751 B1)
IPR2020-00339 (Patent 6,954,789 B2) IPR2020-00485 (Patent 6,651,099 B1)
IPR2020-00486 (Patent 6,954,789 B2)

Trial Practice Guide (Nov. 2019), 19–20. Patent Owner is authorized to file an opposition to each such motion.

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Juniper's request for authorization to file a Motion to Disqualify Dr. Almeroth in each of these proceedings is *granted*;

FURTHER ORDERED that each Motion to Disqualify may be no more than ten (10) pages in length;

FURTHER ORDERED that Juniper shall file any such Motion to Disqualify by 5:00 PM Eastern Time, within one week from the date of this Order;

FURTHER ORDERED that such Motion to Disqualify may be accompanied by a Motion to Seal in accordance with 37 C.F.R. § 42.55, as well as a proposed protective order;

FURTHER ORDERED that, if Juniper files a Motion to Disqualify, Patent Owner is authorized to file an Opposition of no more than ten (10) pages in length in each of these proceedings, addressing Juniper's arguments in the Motion to Disqualify;

FURTHER ORDERED that Patent Owner shall file any such Opposition by 5:00 PM Eastern Time, within one week from the date of the Motion to Disqualify;

FURTHER ORDERED that, if Juniper files a Motion to Seal, Patent Owner is authorized to file, along with its Opposition to the Motion to Disqualify, an Opposition addressing Juniper's arguments in the Motion to Seal; and

IPR2020-00335 (Patent 6,651,099 B1) IPR2020-00336 (Patent 6,665,725 B1)
IPR2020-00337 (Patent 6,771,646 B1) IPR2020-00338 (Patent 6,839,751 B1)
IPR2020-00339 (Patent 6,954,789 B2) IPR2020-00485 (Patent 6,651,099 B1)
IPR2020-00486 (Patent 6,954,789 B2)

FURTHER ORDERED that no reply is authorized at this time.

IPR2020-00335 (Patent 6,651,099 B1) IPR2020-00336 (Patent 6,665,725 B1)
IPR2020-00337 (Patent 6,771,646 B1) IPR2020-00338 (Patent 6,839,751 B1)
IPR2020-00339 (Patent 6,954,789 B2) IPR2020-00485 (Patent 6,651,099 B1)
IPR2020-00486 (Patent 6,954,789 B2)

For PETITIONER:

Joseph Edell
Adam Allgood
FISCH SIGLER LLP
joe.edell.ipr@fischllp.com
adam.allgood@fischllp.com

Scott McKeown
James Batchelder
Mark Rowland
ROPES & GRAY LLP
scott.mckeown@ropesgray.com
james.batchelder@ropesgray.com
mark.rowland@ropesgray.com

For PATENT OWNER:

R. Allan Bullwinkel
Michael Heim
HEIM PAYNE & CHORUSH, PLLC
abullwinkel@hpcllp.com
mheim@hpcllp.com