

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

PACKET INTELLIGENCE LLC,  
Patent Owner.

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Case IPR2020-00337  
U.S. Patent No. 6,771,646

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**PETITIONER JUNIPER NETWORKS, INC.'S UNOPPOSED  
MOTION TO SEAL**

In conjunction with filing its Unopposed Motion for Entry of a Modified Protective Order, and pursuant to 37 C.F.R. §§ 42.14 and 42.54, Petitioner Juniper Networks, Inc. respectfully submits this motion to seal confidential business information contained in portions of its Motion to Disqualify Patent Owner's Expert Dr. Kevin Almeroth and Exhibits 1104, 1106, and 1110. The motion and exhibits contain Juniper's confidential information regarding the technical functionality of Juniper's products as well as communications and draft declarations exchanged between Juniper's counsel and expert Dr. Kevin Almeroth.

#### **I. Good Cause Exists For Sealing Certain Confidential Information**

In determining whether to grant a motion to seal, the Board must find “good cause” and “strike a balance between the public's interest in maintaining a complete and understandable file history and the parties' interest in protecting truly sensitive information.”<sup>1</sup> As provided in its Trial Practice Guide, the Board identifies “confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information.”<sup>2</sup> And the Trial Practice Guide also instructs filing a motion to seal containing a proposed

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<sup>1</sup> 37 C.F.R. § 42.54(a); 77 Fed. Reg. 48,756, 48,760 (Aug. 14, 2012).

<sup>2</sup> Patent Trial and Appeal Board Consolidated Trial Practice Guide (Nov. 2019), 19 (citing 37 C.F.R. § 42.54).

protective order and a certification that the moving party has in good faith conferred with the opposing party in an effort to come to an agreement as to the scope of the proposed protective order.<sup>3</sup>

The exhibits that Juniper seeks to seal comprise Juniper's highly confidential, competitively-sensitive information relating to products developed by Juniper, as well as communications and draft expert declarations exchanged between Juniper's counsel and Dr. Almeroth. Juniper relies on this confidential information in support of its Motion to Disqualify Patent Owner's Expert Dr. Kevin Almeroth. Public disclosure of this highly confidential, competitively-sensitive information would likely harm Juniper by providing technical and litigation strategy information to competitors and others.

Specifically, Juniper's motion and exhibits that contain confidential information are:

- The Motion to Disqualify Patentee's Expert Dr. Kevin Almeroth, which, on pages 6-8, contains highly confidential, competitively sensitive information regarding Juniper's products as well as communications and draft expert declarations exchanged between Juniper's counsel and Dr. Almeroth.
- Exhibit 1104 is the declaration of David McPhie, which, on pages 4-5, contains highly confidential, competitively sensitive information

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<sup>3</sup> *Id.*, 19-20 (citing § 42.54).

regarding Juniper's products as well as descriptions of communications and draft expert declarations exchanged between Juniper's counsel and Dr. Almeroth.

- Exhibit 1106 is the Declaration of Kevin C. Almeroth previously filed under seal in IPR2013-00369 as Ex. 2095, which, on pages 44-48, contains highly confidential, competitively-sensitive information regarding Juniper's products.<sup>4</sup>
- Exhibit 1110 is an excerpted draft declaration from Dr. Almeroth relating to IPR2013-00369, which contains highly confidential, communications and draft expert declarations exchanged between Juniper's counsel and Dr. Almeroth.<sup>5</sup>

As detailed in its Motion to Disqualify, Juniper relies on Exhibits 1104, 1106, and 1110 to establish Dr. Almeroth received highly confidential, competitively-sensitive information regarding Juniper's products as part of a confidential relationship with Juniper. Also, Juniper relies on Exhibits 1104 and

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<sup>4</sup> When Declaration of Kevin C. Almeroth was previously filed under seal on March 28, 2014 as Ex. 2095 in IPR2013-00369, this declaration included additional redactions of Palo Alto Network's confidential information on pages 44, 45, 48, and 72.

<sup>5</sup> As with Ex. 1106, the excerpt of Dr. Almeroth's draft declaration for IPR2013-00369 includes additional redactions of Palo Alto Network's confidential information on pages 8-10 and 13-14.

1110 to establish Dr. Almeroth had confidential and privileged communications with Juniper's lawyers.

Because the Motion and Exhibits 1104, 1106, and 1110, which are designated PROTECTIVE ORDER MATERIAL — ATTORNEY'S EYES ONLY, contain highly confidential information relevant to these proceedings, Juniper respectfully requests the Board grants its motion to seal the motion and exhibits. Also, Juniper provides public, redacted versions of its Motion to Disqualify and Exhibits 1104 and 1106.<sup>6</sup> These redactions are narrowly tailored to remove just Juniper's confidential information while revealing to the public as much as possible.

## **II. Certification of Conference with Parties Pursuant to 37 C.F.R. § 42.54**

Juniper has conferred with Petitioner Palo Alto Networks, Inc. and Patentee Packet Intelligence LLC regarding filing these exhibits under seal subject to the proposed modified protective order. Palo Alto Networks and Packet Intelligence do not oppose.

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<sup>6</sup> Exhibit 1107 is the redacted version of Exhibit 1106. Exhibits 1106 and 1107 contain all the non-confidential information present in Exhibit 1110.

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