UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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JUNIPER NETWORKS, INC. and 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'S REPLY TO PATENT OWNER'S RESPONSE

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USE OF EMPHASIS IN QUOTATIONS

All emphases in quotations and exhibit citations have been added, unless otherwise indicated.

APPLICABLE STATUTES

References to 35 U.S.C. §§102 and 103 are to the pre-AIA versions applicable to the '646 Patent.

I.   INTRODUCTION

Patent Owner doesn't dispute that the art of record teaches a "conversational flow" as construed by the Board. Rather than address the trial grounds under the Board's construction, PO again argues—as it did in its POPR and Rehearing Request—that a "conversational flow" must be further limited to define only those flows of a particular client. The Board has already rejected PO's argument twice, and the POR offers no new evidence or arguments warranting a different outcome.

Indeed, the Board's rejection of PO's position remains sound. The specification contains no language that limits conversational flows to activity by a particular client. The specification instead broadly discloses multiple examples of a "conversational flow" that aren't client-specific. And PO's argument, if accepted, would exclude these embodiments from the scope of "conversational flow" based upon only unsupported attorney argument. Despite the extensive litigation history of these patents, this marks the *first* proceeding in which PO has asserted this narrow, embodiment-excluding construction of "conversational flow."

But even applying PO's incorrect construction, Riddle and Yu nevertheless teach "conversational flow." And PO's remaining arguments attack the prior art references individually rather than in combination and as bodily incorporated combinations nowhere presented in the petition. Neither approach provides a basis to

contradict the Board's prior reasoning. Thus, all challenged claims are unpatentable.

II. PO'S ATTEMPT TO NARROW THE MEANING OF "CONVERSATIONAL FLOW" CONTRADICTS THE SPECIFICATION AND EXCLUDES EMBODIMENTS.

The term "conversational flow" appears in every challenged claim. The Board adopted a construction that mirrors definitional language in the related '099 Patent—"the sequence of packets that are exchanged in any direction as a result of an activity."[1] PO doesn't address the trial grounds under that construction. Thus, when applying its prior construction, the Board should find that the prior art renders obvious every challenged claim.

Rather than address the Board's construction, PO argues again that a "conversational flow" is limited to a single instance of an activity by a "particular user or client device."[2] But PO premises its argument on the unsupported position that "activity" (as used in the Board's construction of "conversational flow") is limited to one "involv[ing] an application and a particular client device."[3] The Board already rejected this same argument multiple times, and should do so again.[4] Indeed,

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[1] ID, 27-29. The '646 incorporates-by-reference the '099's application. '646, 1:16-18.

[2] POR, 3, 10-11, 24-26.

[3] *Id.*, 38.

[4] ID, 28-29; R'hrg Dec., 3-6.

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