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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CLOUDFLARE, INC., and SPLUNK, INC.,
Petitioners,

v.

SABLE NETWORKS, INC.,
Patent Owner.

IPR2021-00909
Patent 8,243,593 B2

Record of Oral Hearing
Held: September 7, 2022

Before STACEY G. WHITE, GARTH D. BAER, and
JULIET MITCHELL DIRBA, Administrative Patent Judges.

IPR2021-00909
Patent 8,243,593 B2

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The above-entitled matter came on for hearing Wednesday,
September 7, 2022, commencing at 10:00 a.m. EDT, via Videoconference.

P-R-O-C-E-E-D-I-N-G-S

10:00 a.m.

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3 JUDGE DIRBA: Good morning. This is the oral hearing for
4 IPR2021-00909, relating to U.S. Patent 8,243,593. My name is Judge Dirba
5 and I'm joined today by my colleagues, Judges White and Baer. We'll begin
6 with appearances. Petitioner.

7 MR. DAY: This is James Day on behalf of Petitioner, Cloudflare.
8 And I'd like to mention my colleague, Dan Callaway is here with me, also on
9 behalf of Cloudflare. And I understand the Counsel for Splunk, Petitioner
10 Splunk, is on the public line. And that is Alex Yap and Mehran Arjomand,
11 Morrison Foerster.

12 JUDGE DIRBA: And Mr. Day, who will be presenting on
13 Petitioner's behalf, today? Is that just you, or will that be your colleague,
14 Mr. Callaway as well?

15 MR. DAY: Just me, Your Honor.

16 JUDGE DIRBA: Okay. And Patent Owner.

17 MR. WEATHERWAX: Can you hear me, Your Honor?

18 JUDGE DIRBA: I can, not very well.

19 MR. WEATHERWAX: All right. Just let me know if I'm too soft,
20 because I am hard of hearing. And so, I do my best to modulate my own
21 volume. But if I'm not, please remind me. This is Kenneth Weatherwax, for
22 the Patent Owner. Patent Owner is also appeared at this meeting, by Daniel
23 Epstein and Erin McCracken.

24 (Simultaneous speaking.)

25 JUDGE DIRBA: And Mr. Weather -- I apologize.

26 MR. WEATHERWAX: I will --

1 JUDGE DIRBA: Go ahead, Mr. Weatherwax. I'll let you finish
2 your appearances.

3 MR. WEATHERWAX: That was all my appearances, Your Honor.

4 JUDGE DIRBA: Excellent, and Mr. Weatherwax, will anyone other
5 than you be presenting on Patent Owner's behalf today?

6 MR. WEATHERWAX: No, Your Honor.

7 JUDGE DIRBA: All right. I'll begin with a few general reminders
8 for the hearing today. The hearing order provided that each party will have
9 45 minutes of total argument time. Petitioner will open the hearing by
10 presenting its arguments regarding the alleged unpatentability of the
11 challenged claims. Petitioner may reserve rebuttal time, but no more than
12 half of its total argument time.

13 Thereafter, Patent Owner will response to Petitioner's arguments.
14 Patent Owner may reserve surrebuttal time of no more than half of its total
15 argument time to respond to Petitioner's rebuttal. Each side's rebuttal must
16 respond to the arguments presented by the other side, but otherwise, each
17 side may use its allotted time to discuss the case as it chooses.

18 No new arguments may be presented at this hearing that have not
19 been argued in the briefs. Counsel should hold any objections regarding the
20 other side's arguments until it is their turn to speak. Also, I'll note that we've
21 received Petitioner's objection to Slide 12 of Patent Owner's demonstrative.
22 We will not rule on that objection at this time. But if Patent Owner presents
23 that slide, we will ask Counsel to specifically identify where in the briefs the
24 objected to argument was made.

25 A few reminders for video. Please mute your microphone when
26 you're not presenting. We may have an unexpected interruption in the

1 connection. If that happens to one of the video participants, or the Court
2 Reporter, we will pause the argument and resume once the connection can
3 be reestablished.

4 If it is your connection that is lost, please spend up to five or so
5 minutes attempting to reestablish the connection. If attempts are
6 unsuccessful, at that point, please rejoin the hearing by audio, or reach out to
7 one of the hearing staff.

8 Are there any questions before we begin? Petitioner?

9 MR. DAY: No, Your Honor.

10 JUDGE DIRBA: Patent Owner?

11 MR. WEATHERWAX: No, Your Honor.

12 JUDGE DIRBA: Very well. We'll begin with Petitioner's
13 presentation. Mr. Day, how long would you like to reserve for your
14 rebuttal?

15 MR. DAY: I'd like to save 10 minutes for rebuttal, Your Honor.

16 JUDGE DIRBA: And you may begin when you're ready.

17 MR. DAY: Well, good morning, Your Honors. We are here today
18 to discuss the 593 Patent. I've provided a set of slides. And I'd refer you to
19 Slide 2 to begin. And you'll see that this 593 Patent is entitled, Mechanism
20 for Identifying and Penalizing Misbehaving Flows in a Network.

21 And what the patent is talking about, is you have these flows of data
22 packets going through a network. And you want to identify the type of
23 traffic, so you can manage it. And in some cases, you can drop some of the
24 packets. You can discard the flow entirely. And what the patent talks about
25 is, at the time, there were existing techniques that looked for signatures. In

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