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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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CLOUDFLARE, INC. and SONICWALL INC.,  
Petitioner,

v.

SABLE NETWORKS, INC.,  
Patent Owner.

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Case No. IPR2021-00909  
Patent 8,243,593

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**JOINT MOTION OF SONICWALL INC. AND SABLE NETWORKS, INC.  
TO TERMINATE AS TO SONICWALL INC.  
PURSUANT TO 35 U.S.C. § 317**

<b>EXHIBIT LIST</b>	
2001	Josh McHugh, “The <i>n</i> -Dimensional SuperSwitch,” WIRED (May 1, 2001, 12:00 am) (available at <a href="https://www.wired.com/2001/05/caspian/">https://www.wired.com/2001/05/caspian/</a> (last visited Aug. 16, 2021))
2002	Email from Jun Zheng, U.S. District Court for Western District of Texas staff, to counsel for parties, with Subject “Sable Networks, Inc., et al. v. Riverbed Technology, Inc., No. 6:21-cv-00175-ADA and Sable Networks, Inc., et al. v. Cloudflare, Inc., No. 6:21-cv-00261-ADA – Request for Telephone Conference” (Aug. 20, 2021, 9:04 am)
2003	Scheduling Order, Dkt. 21, <i>Sable Networks, Inc., et al. v. Cloudflare, Inc.</i> , No. 6:21-cv-00261-ADA (June 24, 2021)
2100	Settlement agreement (contains business confidential information) [NEWLY ADDED]

Pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. § 42.74, one of the two petitioner constituents in this proceeding, SonicWall Inc. (“SonicWall”), together with Patent Owner Sable Networks, Inc. (“Patent Owner”) (collectively “the Settling Parties”), jointly request termination of *inter partes* review (“IPR”) of the pending case as to SonicWall.

For the Board’s convenience, it is noted that this is one of three substantially identical motions being filed simultaneously in three cases variously challenging claims of U.S. Patent Nos. 8,243,593, 6,977,932, and 7,012,919 (collectively, the “Patents-At-Issue”), including the present case, as laid out below:

<b>IPR</b>	<b>Patent</b>
IPR2021-00909	8,243,593
IPR2021-00969	6,977,932
IPR2021-01005	7,012,919

The disputes between SonicWall and Patent Owner have been resolved, and pursuant to a written agreement (the “Settlement Agreement”) that resolves those disputes, the Settling Parties now move to terminate this IPR as to SonicWall. In accordance with 37 C.F.R. § 42.20(b), the Settling Parties jointly sought authorization to file this motion, and received such authorization from the Board on September 29, 2021.

Termination is proper for at least the following reasons:

- The Board has not yet “decided the merits of the proceeding *before the request for termination is filed.*” 35 U.S.C. § 317(a) (emphasis added); 77 Fed. Reg. at 48,768 (“The Board expects that a proceeding will terminate after the filing of a settlement agreement, unless the Board has already decided the merits of the proceeding.”). In this case, no decision regarding whether to grant or deny institution has yet been entered. This supports the propriety of terminating this proceeding. *Id.* And 35 U.S.C. § 317(a) provides that even “[a]n inter partes review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.”
- The Settling Parties are jointly requesting termination. 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012) (“There are strong public policy reasons to favor settlement between the parties to a proceeding”).
- Other proceedings involving the Patents-At-Issue that have been recently terminated pursuant to settlement include:
  - *Sable Networks, Inc. et al. v. Dell Technologies Inc. et al.*, No. 6:20-cv-00569-ADA (W.D. Tex.) (Order of dismissal with prejudice, Jan. 25, 2021 (Dkt. 47));

- *Sable Networks, Inc. et al. v. Fortinet, Inc.*, No. 5:20-cv-00109-RWS (E.D. Tex.) (Order of dismissal with prejudice, Jan. 26, 2021 (Dkt. 64)), No. 5:20-cv-00196-RWS (E.D. Tex.) (Order granting agreed motion to dismiss with prejudice, Jan. 26, 2021 (Dkt. 14));
- *Sable Networks, Inc. et al. v. Juniper Networks, Inc.*, No. 6:20-cv-00524-ADA (W.D. Tex.) (stipulation of dismissal with prejudice, Jan. 20, 2021 (Dkt. 64));
- *Sable Networks, Inc. et al. v. Nokia Corp. et al.*, No. 6:20-cv-00808-ADA (W.D. Tex.) (Order of dismissal with prejudice, Jan. 26, 2021 (Dkt. 33));
- *Sable Networks, Inc. et al. v. Hewlett Packard Enterprise Company et al.*, No. 5:20-cv-00120-RWS (E.D. Tex.) (Order of dismissal with prejudice, Jan. 21, 2021 (Dkt. 39)); and
- *Sable Networks, Inc. et al. v. Palo Alto Networks, Inc.*, No. 5:20-cv-00111-RWS (E.D. Tex.) (Order of dismissal with prejudice, Jan. 26, 2021 (Dkt. 29)).
- *Sable Networks, Inc. et al. v. Forcepoint LLC*, No. 6:21-cv-00241-ADA (W.D. Tex.) (stipulation of dismissal with prejudice, Jul. 06, 2021 (Dkt. 19)).
- *Sable Networks, Inc. et al. v. SonicWall Inc.*, No. 6:21-cv-00190-ADA (W.D. Tex.) (stipulation of dismissal with prejudice, Aug. 02, 2021 (Dkt. 22)).
- *Sable Networks, Inc. et al. v. Check Point Software Techs., Ltd. et al.*, No. 1:21-cv-00201-LPS (D. Del.) (stipulation of dismissal with prejudice, Apr. 23, 2021 (Dkt. 8)).

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