

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HEWLETT PACKARD ENTERPRISE CO.,
ARUBA NETWORKS, LLC,
CISCO SYSTEMS, INC.
APPLE INC.,
Petitioners,

v.

BILLJCO, LLC,
Patent Owner.

Case: IPR2022-00426
U.S. Patent No. 8,761,804

**PETITIONERS' REPLY TO PATENT OWNER
PRELIMINARY RESPONSE TO PETITION**

PETITIONERS' EXHIBIT LIST

Exhibit No.	Description
1001	U.S. Patent No. 8,761,804 (“the ’804 Patent”)
1002	Prosecution History of U.S. Patent No. 8,761,804
1003	Curriculum Vitae of Darrell D.E. Long
1004	Declaration of Darrell D.E. Long, dated January 14, 2022
1005	U.S. Patent No. 7,123,926 (“Himmelstein”)
1006	U.S. Patent Application Publication No. 2003/0014181 (“Myr”)
1007	U.S. Patent No. 6,327,535 (“Evans”)
1008	U.S. Patent No. 8,600,341
1009	Prosecution History of U.S. Patent No. 8,600,341
1010	U.S. Patent Application Publication No. 2007/0030824 (“Ribaudó”)
1011	<i>BillJCo, LLC v. Apple Inc.</i> , Case No. 6:21-cv-528, Apple, Inc.’s Opening Claim Construction Brief, Dkt. No. 32 (W.D. Tex. Dec. 2, 2021)
1012	<i>BillJCo, LLC v. Apple Inc.</i> , Case No. 6:21-cv-528, Agreed Scheduling Order, Dkt. No. 27 (W.D. Tex. Sept. 11, 2021)
1013	<i>BillJCo, LLC v. Cisco Sys., Inc.</i> , Case No. 2:21-cv-181, <i>BillJCo, LLC v. Hewlett-Packard Enterprise Co. and Aruba Networks</i> , Case No. 2:21-cv-183, Docket Control Order, Dkt. No. 44 (E.D. Tex. Oct. 25, 2021)
1014	Dufresne, A., et al., <i>How Reliable are Trial Dates Relied on by the PTAB in the Fintiv Analysis?</i> (Oct. 29, 2021)
1015	<i>Fintiv, Inc. v. Apple Inc.</i> , Case No. 6:21-cv-926-ADA, Order (Oct. 4, 2021)

Exhibit No.	Description
1016	<i>BillJCo, LLC v. Cisco Sys., Inc.</i> , Case No. 2:21-cv-181, Cisco Systems Inc.'s Motion to Transfer Venue, Dkt. No. 36 (E.D. Tex. Oct. 11, 2021)
1017	<i>BillJCo, LLC v. Hewlett-Packard Enterprise Co. and Aruba Networks</i> , Case No. 2:21-cv-183, Hewlett-Packard Enterprise Company's and Aruba Networks, LLC's Opposed Motion to Transfer Venue to the Northern District of California Under 28 U.S.C. § 1404, Dkt. No. 34 (E.D. Tex. Oct. 4, 2021)
1018	<i>BillJCo, LLC v. Apple Inc.</i> , Case No. 6:21-cv-528, Defendant's Motion to Dismiss Plaintiff's Claims of Willful Infringement as to Each Patents-in-Suit and Plaintiff's Claims of Indirect Infringement as to Each Patents-in-Suit, Dkt. No. 16 (W.D. Tex. Aug. 2, 2021)
1019	<i>BillJCo, LLC v. Apple Inc.</i> , Case No. 6:21-cv-528, Apple Inc.'s Opposed Motion to Transfer Venue Pursuant to 28 U.S.C. § 1404, Dkt. No. 26 (W.D. Tex. Sept. 10, 2021)
1020	Curriculum Vitae listing Prior Litigation Engagements for Darrell D.E. Long
1021	Jackson, C., <i>Radar and LORAN</i> , Popular Electronics (July 1959)
1022	Letter from Krishnan Padmanabhan, dated January 14, 2022
1023	Declaration of Rose Cordero Prey In Support of Motion to Appear <i>Pro Hac Vice</i>
1024	Claim Construction Memorandum Opinion and Order, <i>BillJCo, LLC v. Hewlett Packard Enter. Co.</i> , No. 2:21-cv-00183 (E.D. Tex. Mar. 14, 2021)
1025	Defendants Cisco Sys., Inc.'s Hewlett Packard Enter. Co.'s and Aruba Networks LLC's Mot. for Leave to Amend Invalidity Contentions, No. 2:21-cv-00181-JRG, Dkt. 94 (filed Feb. 25, 2022)

Exhibit No.	Description
1026	Defendants Hewlett Packard Enter. Co's and Aruba Networks, LLC's Mot. to Leave to Amend Invalidity Contentions, No. 2:21-cv-00181, Dkt. 104 (filed Mar. 21, 2022).
1027	May 26, 2022 Order Granting Apple Inc.'s Petition for Writ of Mandamus

This Reply addresses Patent Owner’s arguments about the application of *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (Mar. 20, 2020) (precedential) to this proceeding and was authorized by the Board by email on May 20, 2022.

Several allegations made by Patent Owner (“BillJCo”) warrant reply because BillJCo’s characterization of the facts is flawed and subsequent developments show that *Fintiv* is no basis to deny the Petition.

I. THE BOARD SHOULD REFUSE TO SPECULATE ABOUT WHETHER THE LITIGATIONS MIGHT BE STAYED AND THE APPLE LITIGATION WAS TRANSFERRED AND THE TRIAL DATE WAS VACATED (*FINTIV* FACTORS 1 & 2)

Patent Owner asks the Board to speculate about the likelihood of a stay being granted based on statistics, but there is no concrete evidence before the Board about the likelihood of stay in these cases and on these facts. POPR, 10-11. Given the lack of evidence for or against a stay being granted, this factor is neutral not “strongly in favor of discretionary denial” as BillJCo contends, POPR, 11. *See Dell Techs. Inc. v. WSOU Investments, LLC d/b/a Brazos Licensing and Dev.*, IPR2021-00272, Paper 13, 7-8 (Jul. 1, 2021) (declining to speculate how a judge would rule on a motion to stay). The Board should decline to speculate about what might happen in the litigations as it has in the past. *See Apple Inc. v. BillJCo, LLC*, IPR2022-00129, Paper 7 at 6-7 (PTAB May 23, 2022).

The speculative nature about what may or may not happen is amplified further by Apple’s granted petition for writ of mandamus, which has vacated the trial date

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