

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PALO ALTO NETWORKS, INC.,
Petitioner,

v.

CENTRIPETAL NETWORKS, INC.,
Patent Owner.

IPR2022-00182
Patent 9,917,856 B2

Before BRIAN J. McNAMARA, AARON W. MOORE, and
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

AMUNDSON, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

Palo Alto Networks, Inc. (“Petitioner”) filed a Petition requesting an *inter partes* review of claims 1, 24, and 25 in U.S. Patent No. 9,917,856 B2 (Ex. 1001, “the ’856 patent”) under 35 U.S.C. §§ 311–319. Paper 2 (“Pet.”). Centripetal Networks, Inc. (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Prelim. Resp.”).

In the Preliminary Response, Patent Owner argues that we should exercise our discretion under § 314(a) or § 325(d) to deny institution. *See* Prelim. Resp. 24–45; 35 U.S.C. §§ 314(a), 325(d). As an example, Patent Owner argues under § 314(a) that Petitioner has “no stake in the outcome of this proceeding” and “no reasonable basis to maintain this challenge other than harassment.” Prelim. Resp. 35. As another example, Patent Owner argues under § 325(d) that the Examiner considered Martini¹ and Spies² during the ’856 patent’s prosecution and that Petitioner’s primary reference to Buruganahalli³ is “in all relevant aspects” the “same as” Martini and “cumulative” to Spies. *Id.* at 25, 29.

In the Petition, Petitioner argues that we should decline to exercise our discretion to deny institution. *See* Pet. 8–10.

On March 29, 2022, Petitioner’s counsel emailed the Board to (1) request authorization to file a preliminary reply to address Patent Owner’s arguments about discretionary denial under § 314(a) and § 325(d)

¹ *See* U.S. Patent Application Publication No. 2014/0317397 A1, titled “Selectively Performing Man in the Middle Decryption,” to Martini (“Martini”) (Ex. 2005).

² *See* U.S. Patent Application Publication No. 2005/0138353 A1, titled “Identity-Based-Encryption Message Management System,” to Spies et al. (“Spies”) (Ex. 2001).

³ *See* U.S. Patent No. 9,680,795 B2, titled “Destination Domain Extraction for Secure Protocols,” to Buruganahalli et al. (“Buruganahalli”) (Ex. 1004).

and (2) propose “a responsive filing from Patent Owner.” Ex. 3001. Petitioner’s counsel reports that “Patent Owner has indicated that it does not oppose briefing on 314(a), but that it opposes briefing on 325(d).” *Id.*

After reviewing the Petition and the Preliminary Response and considering the circumstances, we believe that further briefing will assist us in deciding whether to exercise our discretion under § 314(a) but that further briefing not will assist us in deciding whether to exercise our discretion under § 325(d).

ORDER

Accordingly, it is

ORDERED that no later than five business days after the date of this order, Petitioner may file a Preliminary Reply no longer than five pages that addresses discretionary denial under § 314(a);

FURTHER ORDERED that no later than five business days after Petitioner files a Preliminary Reply, Patent Owner may file a Preliminary Sur-reply no longer than five pages that responds to the Preliminary Reply; and

FURTHER ORDERED that Petitioner may not file any new evidence with the Preliminary Reply and Patent Owner may not file any new evidence with the Preliminary Sur-reply.

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