
From: Price, Jeffrey H. <JPrice@KRAMERLEVIN.com>
Sent: Friday, July 22, 2022 3:37 PM
To: Precedential_Opinion_Panel_Request
Cc: Radsch, Andrew; bsilver@bannerwitcoff.com; bwright@bannerwitcoff.com; Batchelder, James R.; skelly@bannerwitcoff.com; Rowland, Mark D.; Fuller, Jenna; McKeown, Scott; Hannah, James
Subject: RE: Precedential Opinion Panel Review for IPR2022-00182
Attachments: IPR2022-01151 - Patent Owner's Opp. to Mot. for Joinder-8.pdf; IPR2022-01199 - Patent Owner's Opp. to Mot. for Joinder-8.pdf

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Dear Honorable Precedential Opinion Panel,

As indicated below, Centripetal writes to notify the POP of Centripetal's Oppositions to two Motions to Joinder to Case No. IPR2022-00182. Copies of the Oppositions are attached.

Best regards,
Jeff Price
Counsel for Patent Owner, Centripetal Networks, Inc.

>

Jeffrey H. Price
Associate

Kramer Levin Naftalis & Frankel LLP
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-----Original Message-----

>From: McKeown, Scott <Scott.McKeown@ropesgray.com>
>Sent: Thursday, June 30, 2022 12:15 AM
>To: Hannah, James <JHannah@KRAMERLEVIN.com>
>Cc: Precedential_Opinion_Panel_Request@uspto.gov; Radsch, Andrew
><Andrew.Radsch@ropesgray.com>; bsilver@bannerwitcoff.com;
>bwright@bannerwitcoff.com; Batchelder, James R.
><James.Batchelder@ropesgray.com>; skelly@bannerwitcoff.com; Price,
>Jeffrey H. <JPrice@KRAMERLEVIN.com>; Rowland, Mark D.
><Mark.Rowland@ropesgray.com>; Fuller, Jenna <JFuller@KRAMERLEVIN.com>
>Subject: [EXTERNAL] Re: Precedential Opinion Panel Review for
>IPR2022-00182

>

>Palo Alto Networks (PAN) strongly objects to the repeated and
>unauthorized argumentation provided to this email by Centripetal, but
>can no longer ignore this improper argumentation.

IPR2022-00182
Ex. 3014

>
>PAN challenged the patent in this proceeding because it is directly
>related to patents Centripetal been accused of infringing in the
>district court, includes overlapping claims/specification/terms, and
>Centripetal's expert explicitly accused PAN of infringing it. In
>rejecting the very same arguments Centripetal makes in its POP request,
>the panel credited these same facts. This dispute has nothing to do with the matters at issue in OpenSky.
>
>That others are seeking to join the instituted proceeding, is
>unremarkable, and a straightforward application of the statute, 315(c).
>
>Counsel for Palo Alto Networks
>
>On Jun 29, 2022, at 11:22 PM, Hannah, James <JHannah@kramerlevin.com>
>wrote:
>
>
>
>Your Honors,
>Patent Owner, Centripetal Networks, wishes to inform the Precedential
>Opinion Panel that Cisco Networks and Keysight Technologies—both time-
>barred petitioners—have recently filed motions to join the above
>referenced IPR. Both petitioners were accused of infringing the '856
>Patent in the past and instead opted to challenge validity in different
>forums despite being aware of the main prior art in this proceeding.
>Centripetal intends to file oppositions to the motions for joinder in
>the near future that relate to the currently pending POP rehearing
>request that will explain how the Board's decision to institute in this
>proceeding opens the door to such improper serial attacks on patents across multiple forums, contrary to the purpose
of IPRs.
>
>Respectfully,
>James Hannah
>Counsel for Centripetal Networks
>
>
>
>
>James Hannah
>Partner
>
>Kramer Levin Naftalis & Frankel LLP
>990 Marsh Road, Menlo Park, California 94025 T 650.752.1712 F
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>communication. Thank you for your cooperation.

>

>

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>Washington, DC 20006-6807

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>

>From: Hannah, James <JHannah@KRAMERLEVIN.com>

>Sent: Wednesday, June 8, 2022 5:56 PM

>To: 'Precedential_Opinion_Panel_Request@uspto.gov'

><Precedential_Opinion_Panel_Request@uspto.gov>

>Cc: Radsch, Andrew <Andrew.Radsch@ropesgray.com>;

>'bsilver@bannerwitcoff.com' <bsilver@bannerwitcoff.com>;

>bwright@bannerwitcoff.com; Batchelder, James R.

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><skelly@bannerwitcoff.com>; Price, Jeffrey H. <JPrice@KRAMERLEVIN.com>;

>Rowland, Mark D. <Mark.Rowland@ropesgray.com>; McKeown, Scott

><Scott.McKeown@ropesgray.com>; Fuller, Jenna <JFuller@KRAMERLEVIN.com>

>Subject: Precedential Opinion Panel Review for IPR2022-00182

>

>Your Honors,

>

>Patent Owner, Centripetal Networks ("Centripetal"), has filed the

>attached request for rehearing of the Board's Institution decision and

>requests Precedential Opinion Panel review to address a question of

>exceptional importance that threatens the integrity and fairness of the patent system.

>Based on my professional judgment, I believe this case requires an

>answer to the following precedent-setting questions of exceptional importance:

>

>"Whether petitions filed substantially for the purpose of harassing

>patent owners who prevail in Article III courts, such as petitions

>targeting patents that have not been asserted against the petitioner
>but are the basis of district court judgments that are pending on
>appeal, should be discretionarily denied.”
>
>Director Vidal has already recognized the significant importance of
>similar issues by granting sua sponte Director rehearing of the
>institution decision in OpenSky Indus., LLC v. VLSI Tech. LLC,
>IPR2021-01064, -01229 to address discretionary denial of petitions
>filed substantially for the purpose of harassing patent owners who prevail in Article III courts.
>
>Based on my professional judgment, I also believe the Board panel
>decision is contrary to the following provisions, statutes, or
>regulations: 35 U.S.C. § 314(a).
>
>Based on my professional judgment, I also believe the Board panel
>decision is contrary to the following decision(s) of the Supreme Court
>of the United States, the United States Court of Appeals for the
>Federal Circuit, or the
>precedent(s) of the Board:
>
>
>· Cuozzo Speed Techs., LLC v. Lee, 579 U.S. 261, 273 (2016)
>
>· Plaut v. Spendthrift Farm, Inc., 514 U.S. 211, 218-19 (1995).
>
>· Mylan Lab’ys Ltd. v. Janssen Pharmaceutica, N.V., 989 F.3d 1375, 1382
>(Fed. Cir. 2021)
>
>· Gen. Plastic Indus. Co., Ltd. v. Canon Kabushiki Kaisha, IPR2016-01357,
>Paper 19, 16-17 (Sept. 6, 2017) (precedential)
>
> * Apple Inc. v. Fintiv, Inc., IPR2020-00019, Paper 11, 6 (PTAB Mar. 20, 2020)
>(precedential)
>
>Petitioner, Palo Alto Networks (“PAN”), filed its petition in the
>instant proceedings after Centripetal secured a significant district
>court judgment of willful infringement against Cisco. The district
>court in the Cisco case held a six- week trial, heard from 26
>witnesses, and fully considered the validity of the patent at issue in
>these proceedings, namely the ’856 Patent. So clear was that result
>that Cisco did not bother to appeal the court’s judgment on validity.
>Nevertheless, this judgment is now in jeopardy because PAN, who has not
>been accused of infringing the ’856 Patent, saw an opportunity to
>exploit vulnerability while the Cisco judgement is pending on appeal to gain advantage in an unrelated litigation.
>
>Administrative attacks that follow a completed, intensive, and
>expensive trial undermine the AIA’s goal to provide “quick and cost
>effective alternatives to litigation.” H.R. Rep. No. 112–98, pt. 1, at
>48 (2011). Allowing this Institution Decision to stand will only
>encourage other opportunistic petitioners with no direct interest in
>the patents at issue to abuse the IPR process, running up the cost of
>litigation rather than reducing it, and collaterally attacking

>eviscerating the finality of Article III judgments for purposes completely at odds with the goals of the IPR system.

>

>IPRs are not tools for harassment. “Congress recognized the importance

>of protecting patent owners from patent challengers who could use the

>new administrative review procedures as ‘tools for harassment’” via

>““repeated litigation and administrative attacks on the validity of a

>patent.”” WesternGeco LLC v. ION Geophysical Corp., 889 F.3d 1308, 1317 (Fed. Cir. 2018) (quoting H.R.

>Rep. No. 112-98, pt. 1, at 48)); see also Letter from Kathi Vidal to

>Sens. Hirono and Tillis (May 27, 2022) (The IPR process should not be

>“abused by parties filing petitions in bad faith and for reasons

>outside the intent of the America Invents Act.”). Congress granted the

>Director discretion to deny petitions as a powerful safeguard against

>opportunistic petitioners attempting to weaponize the IPR process. See

>H.R. Rep. No. 112-98, pt. 1, at 48 (encouraging “the USPTO to address

>potential abuses and current inefficiencies under its expanded

>procedural authority”); Gen. Plastic Indus. Co., Ltd. v. Canon

>Kabushiki Kaisha, IPR2016-01357, Paper 19, 16-17 (Sept. 6, 2017)

>(precedential) (recognizing “the potential for abuse of the review process by repeated attacks on patents”).

>

>In order to ensure that the patent system works for its intended

>purpose, Centripetal respectfully request review by the Precedential Opinion Panel.

>

>James Hannah

>Counsel for Centripetal Networks

>

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>

>

>James Hannah

>Partner

>

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>b3d8eyJWljoIMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ik1haWwWwIJCXVCI6Mn0%3D%7C3000%7C%7C%7C&data=aMhKSt7775rncobNQHrWQ9E3vZDORCLw5tqaq9SkMtU%3D&reserved=0

>D&reserved=0

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