

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC.,

Petitioner

v.

NETSOCKET, INC.,

Patent Owner

IPR2023-00606

U.S. Patent No. 7,616,601

**PETITIONER'S AUTHORIZED REPLY
TO PATENT OWNER'S PRELIMINARY RESPONSE**

Discretionary denial under *Fintiv* is not warranted. In co-pending district court litigation, the parties filed a Joint Motion to Amend the Docket Control Order (Ex.1043) with Attachment A (Ex.1044) setting forth a Joint-Proposed Case Management Schedule. The proposed schedule provides for a 5-month extension for all future litigation deadlines, including claim construction and trial. *See generally* Ex.1044. On August 11, 2022, the district court held a hearing tentatively granting the parties' request and referred to an expectation of scheduling trial in late October or November 2024.

Factor 2 weighs against discretionary denial because the expected trial date is well *after* the projected statutory deadline for the Board's Final Written Decision in September 2024. *See* Director's June 21, 2022 Memorandum on Discretionary Denials, 9 (factor 2 weighs "against exercising discretion to deny institution under *Fintiv* if the [trial] is around the same time or after the projected statutory deadline for the PTAB's final written decision.")

Factor 3 also weighs against discretionary denial because the co-pending litigation is still in its very early stages. Claim construction briefs are not due until next spring, so the district court *Markman* hearing will occur months after this proceeding's institution deadline. Ex.1044, 8-9. The parties will also not begin narrowing the asserted claims or invalidity arguments until next spring. Ex.1044, 9.

Accordingly, the Board should not deny institution under *Fintiv*.

Respectfully submitted,

Date: August 21, 2023

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PETITIONER'S UPDATED EXHIBIT LIST

Ex.1001	U.S. 7,616,601
Ex.1002	Prosecution History of U.S. 7,616,601
Ex.1003	Declaration of R. Michael Buehrer, Ph.D. under 37 C.F.R. § 1.68
Ex.1004	<i>Curriculum Vitae</i> of R. Michael Buehrer, Ph.D.
Ex.1005	U.S. 7,043,225 to Patel et al. ("Patel-225")
Ex.1006	U.S. 6,522,628 to Patel <i>et al.</i> ("Patel-628")
Ex.1007	U.S. 6,850,764 to Patel <i>et al.</i> ("Patel-764")
Ex.1008	U.S. 6,865,185 to Patel <i>et al.</i> ("Patel-185")
Ex.1009	U.S. 7,031,266 to Patel <i>et al.</i> ("Patel-266")
Ex.1010	U.S. 7,068,624 to Patel <i>et al.</i> ("Patel-624")
Ex.1011	"Performance of QoS Agents for Provisioning Network Resources," Schelen <i>et al.</i> published by IEEE in 1999 ("Schelen-1999")
Ex.1012	Schelen, O. "Quality of Service Agents in the Internet," Doctoral Thesis, Department of Computer Science and Electrical Engineering, Division of Computer Communication, Lulea University of Technology, Lulea 1998 ("Schelen Thesis")
Ex.1013	U.S. 6,668,175
Ex.1014	U.S. 7,190,698
Ex.1015	"The 3GPP and 3GPP2 movements toward an all-IP mobile network," by Patel et al., in <i>IEEE Personal Communications</i> , vol.

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	7, no. 4, pp. 62-64, Aug. 2000, doi: 10.1109/98.863998.
Ex.1016	"IP QOS: traveling in first class on the Internet," Metz, in <i>IEEE Internet Computing</i> , vol. 3, no. 2, pp. 84-88, March-April 1999, doi: 10.1109/4236.761658.
Ex.1017	"GSM phase 2+ general packet radio service GPRS: Architecture, protocols, and air interface," Bettstetter <i>et al.</i> , in <i>IEEE Communications Surveys</i> , vol. 2, no. 3, pp. 2-14, Third Quarter 1999, doi: 10.1109/COMST.1999.5340709.
Ex.1018	"WCDMA for UMTS: Radio Access for Third Generation Mobile Communications," H. Holma <i>et al.</i>
Ex.1019	"Advance Reservations for Predictive Service in the Internet," Degermark <i>et al.</i> , ("Degermark")
Ex.1020	"A Discussion of Bandwidth Broker Requirements for Internet2 Qbone Deployment," Hares <i>et al.</i>
Ex.1021	"A two-tier resource management model for the Internet," by Terzis <i>et al.</i> , <i>Seamless Interconnection for Universal Services. Global Telecommunications Conference. GLOBECOM'99. (Cat. No.99CH37042)</i> , 1999, pp. 1779-1791 vol.3, doi: 10.1109/GLOCOM.1999.832469.
Ex.1022	U.S. Pub. 2001/0027490A1
Ex.1023	"End-to-End Quality of Service for High-End Applications," Foster <i>et al.</i>
Ex.1024	Andrew T. Campbell "A Quality of Service Architecture," Doctoral Thesis, Computing Department Lancaster University, Lulea 1996
Ex.1025	"A Two-Tier Resource Management Model for Differentiated Services Networks," Reichmeyer <i>et al.</i>

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Ex.1026	"Resource sharing in advance reservation agents," Schelen <i>et al.</i>
Ex.1027	U.S. 6,744,767
Ex.1028	U.S. 6,714,515
Ex.1029	U.S. 6,529,499
Ex.1030	"An Architecture for Advance Reservations in the Internet," Berson <i>et al.</i>
Ex.1031	"Sharing resources through advance reservation agents," by Schelen <i>et al.</i> published in Proceedings of IFIP Fifth International Workshop on Quality of Service (IWQoS'97), New York, May 1997 ("Schelen-1997")
Ex.1032	U.S. 6,631,122
Ex.1033	A two-bit differentiated services architecture for the internet. Internet draft, November 1997
Ex.1034	U.S. Pub. 2002/0087699A1
Ex.1035	"Internet QoS: A Big Picture," Xiao <i>et al.</i>
Ex.1036	Complaint filed on May 24, 2022.
Ex.1037	Amended complaint filed on August 19, 2022.
Ex.1038	Declaration of Ingrid Hsieh-Yee, Ph.D. under 37 C.F.R. § 1.68
Ex.1039	<i>Reserved</i>
Ex.1040	<i>Reserved</i>
Ex.1041	Proposed Docket Control Order, <i>NetSocket, Inc., v. Cisco Systems, Inc.</i> , Civil Action No. 2:22-cv-172-JRG (E.D. Tex, Dec. 21, 2022)

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Ex.1042	Federal Court Statistics
Ex.1043 (NEW)	Joint Motion to Amend the Docket Control Order
Ex.1044 (NEW)	Attachment A, Joint-Proposed Case Management Schedule

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Cisco Systems, Inc.	§ Petition for <i>Inter Partes</i> Review
Petitioner	§
	§ U.S. Patent 7,616,601

CERTIFICATE OF SERVICE

The undersigned certifies, under 37 C.F.R. § 42.6, that service was made on the Patent Owner as detailed below.

Date of service August 21, 2023

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Documents served Petitioner's Authorized Reply to Patent Owner's Preliminary Response and Exhibits 1043 - 1044.

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