

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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CISCO SYSTEMS, INC.,  
Petitioner,

v.

UMBRA TECHNOLOGIES LTD.,  
Patent Owner.

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IPR2024-00344 (Patent 11,146,632 B2)  
IPR2024-00498 (Patent 10,574,482 B2)

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Before ST. JOHN COURTENAY III and MICHAEL R. ZECHER,  
*Administrative Patent Judges.*

ZECHER, *Administrative Patent Judge.*

ORDER  
Conduct of the Proceedings  
*37 C.F.R. § 42.5(a)*

## I. DISCUSSION

A conference call in these proceedings was held on June 10, 2024, among counsel for the parties and Judges Zecher and Courtenay. The conference call was requested by counsel for Petitioner, Cisco Systems, Inc. (“Cisco”), to seek authorization to file a preliminary reply to Patent Owner’s Preliminary Response in each of the above-identified proceedings.

Ex. 3001. More specifically, Cisco requests a seven (7) page preliminary reply to address arguments presented by Patent Owner, Umbra Technologies Ltd. (“Umbra”), in its Preliminary Responses regarding the following:

(1) whether the preamble recitation of “data beacons” should be treated as limiting in IPR2024-00344; (2) the scope and meaning of the claim term “access point server” in IPR2024-00498; and (3) Umbra’s arguments that implicate the claim terms “first perimeter firewall” and “second perimeter firewall” in IPR2024-00498. Umbra arranged for a court reporter and agreed to file a transcript of the conference call as a separate exhibit in each proceeding. 37 C.F.R. § 42.63(a) (“All evidence must be filed in the form of an exhibit.”). We reiterate some of the discussion here, but we need not repeat all of the details because the complete discussion will be reflected in the transcript.

Because Umbra does not oppose Cisco’s request for additional briefing in IPR2024-00344, much of the discussion during the conference call focused on Cisco’s request for additional briefing in IPR2024-00498, which Umbra opposes. Ex. 3001. Cisco argued that it could not have anticipated Umbra’s arguments presented in the Preliminary Response for IPR2024-00498 regarding the proper scope and meaning of the claim term “access point server” because Umbra separately construed “access point”

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and “server” and then combined those two constructions to arrive at its proposed construction for the claim term “access point server.” Cisco also argues that it could not have anticipated Umbra’s arguments presented in the Preliminary Response for IPR2024-00498 that implicate the claim terms “first perimeter firewall” and “second perimeter firewall.” Umbra’s principal argument opposing Cisco’s request for additional briefing in IPR2024-00498 was that those arguments were foreseeable.

After a brief deliberation, we determined that Cisco satisfied the good cause standard for filing a preliminary reply in both IPR2024-00344 and IPR2024-00498 because we would benefit from additional briefing that is narrowly tailored to address the following issues: (1) whether the preamble recitation of “data beacons” should be treated as limiting in IPR2024-00344; (2) the proper scope and meaning of the claim term “access point server” in IPR2024-00498; and (3) Umbra’s arguments that implicate the claim terms “first perimeter firewall” and “second perimeter firewall” in IPR2024-00498. *See* 37 C.F.R. § 42.108(c) (“A petitioner may seek leave to file a reply to the preliminary response in accordance with [37 C.F.R.] §§ 42.23 and 42.24(c). Any such request must make a showing of good cause.”). Cisco sufficiently demonstrated that good cause exists to allow additional briefing because, as one example, Umbra’s arguments presented in the Preliminary Response filed in IPR2024-00498 heavily rely upon extrinsic evidence to support its proposed construction for the claim term “access point server,” which, in our view, Cisco could not have reasonably foreseen. IPR2024-00498, Paper 6 (“Patent Owner’s Preliminary Response”), 5–9.

We authorized Cisco to file preliminary replies narrowly tailored to address the issues identified above that are each limited to five (5) pages.

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Cisco's preliminary replies are due no later than Monday, June 17<sup>th</sup>, 2024 in each of the above-identified proceedings. We also authorized Umbra to file preliminary sur-replies addressing the same that are each limited to five (5) pages. Due to the federal holiday on June 19<sup>th</sup>, 2024, Umbra's preliminary sur-replies are due no later than Tuesday, June 25<sup>th</sup>, 2024 in each of the above-identified proceedings. No additional evidence of any kind is permitted to be filed with either the preliminary replies or the preliminary sur-replies.

## II. ORDER

Accordingly, it is hereby:

ORDERED that Cisco is authorized to file a five page preliminary reply due no later than Monday, June 17<sup>th</sup>, 2024, in each of the above-identified proceedings; and

FURTHER ORDERED that Umbra is authorized to file a five page preliminary sur-reply due no later than Tuesday, June 25<sup>th</sup>, 2024, in each of the above-identified proceedings.

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