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Paper: 9
Date: July 23, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC. and FORTINET, INC.,
Petitioner,

v.

INFOEXPRESS INC.,
Patent Owner.

IPR2024-00539 (Patent 8,051,460 B2)
IPR2024-00540 (Patent 8,347,350 B2)
IPR2024-00677 (Patent 8,578,444 B2)
IPR2024-00678 (Patent 8,117,645 B2)[1]

Before CHRISTOPHER M. KAISER, JOHN A. HUDALLA, and AARON W. MOORE, *Administrative Patent Judges*.

HUDALLA, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
Authorizing Additional Briefing
37 C.F.R. § 42.20(d)

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[1] We exercise our discretion to issue a single Order to be filed in each case. The parties are not authorized to use this caption style for subsequent papers.

In its Preliminary Response for each of the above-identified proceedings, Patent Owner disputes that the asserted references qualify as prior art "because the InfoExpress inventors conceived of the invention before the effective dates and exercised reasonably continuous diligence in reducing to the claimed inventions to practice." Paper 7, 28–40.[2] To more fully develop the record, and because the panel feels it would be helpful, we authorize, *sua sponte*, additional briefing regarding Patent Owner's attempt to antedate the asserted references. *See* 37 C.F.R. § 42.20(d) ("The Board may order briefing on any issue involved in the trial.").

It is hereby

ORDERED that Petitioner is authorized to file a Preliminary Reply in each of the above-identified proceedings limited to addressing Patent Owner's arguments regarding inventorship by which Patent Owner seeks to antedate the asserted references;

FURTHER ORDERED that, if Petitioner files a Preliminary Reply, the Preliminary Reply is limited to seven pages and shall be filed no later than seven days after the entry date of this Order;

FURTHER ORDERED that Patent Owner is authorized to file a Preliminary Sur-reply in each of the above-identified proceedings limited to addressing the arguments in Petitioner's Preliminary Reply;

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[2] For purposes of expediency, we cite to the Preliminary Response filed in IPR2024-00539. Patent Owner put forth similar arguments in the Preliminary Responses filed in IPR2024-00540, IPR2024-00677, and IPR2024-00678

FURTHER ORDERED that, if Patent Owner files a Preliminary Sur-reply, the Preliminary Sur-reply is limited to seven pages and shall be filed no later than seven days after the filing date of any Preliminary Reply; and

FURTHER ORDERED that Petitioner and Patent Owner shall not file any additional evidence with their briefs.

IPR2024-00539 (Patent 8,051,460 B2)
IPR2024-00540 (Patent 8,347,350 B2)
IPR2024-00677 (Patent 8,578,444 B2)
IPR2024-00678 (Patent 8,117,645 B2)

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