

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC. and FORTINET, INC.,
Petitioners,

v.

INFOEXPRESS INC.,
Patent Owner.

IPR2024-00677
U.S. Patent No. 8,578,444

JOINT REQUEST FOR ORAL ARGUMENT

Pursuant to 37 C.F.R. §§ 42.70, Petitioners and Patent Owner respectfully jointly request oral argument, but propose a consolidated oral argument across the IPRs involving Petitioners and Patent Owners scheduled on a date sufficient to allow for full briefing of all IPRs.

This IPR is one of five IPRs collectively challenging four patents. Oral argument is currently scheduled in:

- IPR2024-00539 and IPR2024-00677 on June 24, 2025¹ and
- IPR2024-00675, IPR2024-00676, and IPR2024-00679 on July 17, 2025.²

The Scheduling Orders and other documents suggest that all five IPRs are assigned to the same panel.

The parties respectfully note that the parties stipulated to extend Due Date 3 (Patent Owner's Sur-Reply) to June 30, 2025 in IPR2024-00675, IPR2024-00676, and IPR2024-00679 in order to accommodate witnesses' and counsels' schedules for depositions. IPR2024-00675, Paper 25; IPR2024-00676, Paper 24; IPR2024-

¹ A parallel Request for Oral Argument will be filed on the same day in the other IPR scheduled for oral argument on June 24, 2025.

² For efficiency, the parties have not yet filed Requests for Oral Argument for the later-scheduled IPRs given that the Board's actions in response to this Request will likely inform or obviate such Requests.

00679, Paper 25. Of relevance to this Request, Due Dates 3 and 5-7 in IPR2024-00675, IPR2024-00676, and IPR2024-00679 fall after the June 24, 2025 scheduled oral argument in IPR2024-00539 and IPR2024-00677. *See* IPR2024-00539, Paper 14; IPR2024-00677, Paper 14.

Thus, the parties respectfully request that consolidated oral argument for all five IPRs be scheduled for the current July 17, 2025 oral argument date for the last three IPRs. This would allow the Board the time contemplated to review the parties' submissions under the original Scheduling Orders and only slightly reduce the time to draft Final Written Decisions in IPR2024-00539 and IPR2024-00677 (while still allowing over ten weeks for IPR2024-00539).

The parties respectfully requests that the oral argument be held in-person at USPTO headquarters in Alexandria, Virginia.

The parties understands that “The Board expects to ordinarily provide for an hour of argument per side for a single proceeding”. *Consolidated Trial Practice Guide* at 81. The parties respectfully suggests that a single oral argument across the five IPRs would both save the Board time by requiring less than the five hours per side suggested by the *Guide* and allow the Board and the parties to efficiently address issues that are at least partially common across the IPRs.

The parties differ on the appropriate time for the proposed consolidated oral argument and propose the following.

<u>Petitioners' Proposal</u>	<u>Patent Owner's Proposal</u>
2 hours per side allocated as each side sees fit	3.5 hours per side allocated as follows: • 2 hours for Antedating (Conception, Diligence, and Constructive Reduction to Practice) • 1.5 hours for § 103 (including Secondary Considerations)

Patent Owner respectfully suggests that the proposed 3.5 hours per side is both appropriate in view of the number of contested issues and the evidence-intensive nature of the antedating and secondary-consideration arguments. Additionally, Patent Owner respectfully suggests that organizing oral argument by broad issues both allows the Board to focus on specific issues and would allow the Board to structure the order of argument based on which party bears the burden of production on a particular issue. Patent Owner respectfully notes that consolidated oral argument by issues framed by the parties was employed in at least one set of IPRs,

with the Patent Owner arguing first on the issue of antedating. *See, e.g.*, IPR2020-00126, Paper 110 (Feb. 16, 2021).

Given the significant amount of overlap among the five proceedings and the relatively limited number of disputed issues, Petitioners believe that no more than 2 hours total per side would be necessary for each party to sufficiently address all the disputed issues in those proceedings. Petitioners further believe that each party should bear the responsibility for allocating its own time rather than agreeing in advance to a specific amount of time per disputed issue.

To the extent the Board schedules this hearing to last more or less than the total hearing time requested by the parties, the parties each request to be given half the total length.

If this oral argument can be held in-person, the parties request the ability to use audio-visual equipment to display demonstratives and exhibits. The parties also request that counsel be allowed to use computers at counsel's table, including for consultation and running audio-visual presentations.

If this oral argument cannot be held in-person, the parties request that the hearing take place via video conference. The parties request the ability to present demonstratives and exhibits to the Board and have the ability to have counsel attend the video conference from separate locations.

Respectfully submitted,

Dated: **May 13, 2025**

<u>/Scott M. Border/</u> Scott M. Border Reg. No. 77,744 Winston & Strawn LLC 1901 L Street, N.W. Washington, D.C. 20036 T: 202-282-5054 sborder@winston.com Lead Counsel for Petitioners	<u>/Brian R. Landry/</u> Brian R. Landry (Reg. No. 62,074) Saul Ewing LLP 131 Dartmouth Street, Suite 501 Boston, MA 02116 Tel: (617) 912-0969 Brian.Landry@saull.com Brian R. Michalek (Reg. No. 65,816) Saul Ewing LLP 161 North Clark Street, Suite 4200 Chicago, IL 60601 Tel: (312) 876-7151 brian.michalek@saull.com Joseph M. Kuo (Reg. No. 38,943) Saul Ewing LLP 161 North Clark Street, Suite 4200 Chicago, IL 60601 Tel: (312) 876-7151 joseph.kuo@saull.com Andrew Schwerin (Reg. No. 72,999) Saul Ewing LLP 1500 Market Street, 38th Floor Philadelphia, PA 19102-2186 Tel: (215) 972-7184 Andrew.Schwerin@saull.com Counsel for Patent Owner
--	--

Certification of Service Under 37 C.F.R. § 42.6(e)(4)

The undersigned hereby certifies that the foregoing was served in its entirety by filing through the Patent Trial and Appeal Board P-TACTS, as well as providing a courtesy copy via e-mail to the attorneys of record.

Date: **May 13, 2025**

/Brian R. Landry/
Reg. No. 62,074