IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ORCKIT CORPORATION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 23-821 (MN)
	)	
ARISTA NETWORKS INC.,	)	
	)	
Defendant.	)	

STIPULATION AND ORDER TO STAY ACTION

WHEREAS, Plaintiff Orckit Corporation ("Plaintiff") filed this lawsuit on July 28, 2023 asserting infringement of U.S. Patent Nos. 7,545,740 ("the '740 Patent), 8,830,821 ("the '821 Patent"), and 10,652,111 ("the '111 Patent") (collectively, the "patents-in-suit") (D.I. 1);

WHEREAS, Plaintiff filed a lawsuit asserting the same three patents-in-suit against Cisco Systems, Inc. ("Cisco") in the Eastern District of Texas in the case styled *Orckit Corp. v. Cisco Systems, Inc.*, C.A. No. 2:22-cv-00276-JRG-RSP;

WHEREAS, Cisco filed petitions for *inter partes* review ("IPR") on all three patents-in-suit (the "Cisco Petitions"), each of which the Patent Trial and Appeal Board ("PTAB") instituted, as follows:

Patent Number	IPR Case Number	Date Instituted
'740 Patent	IPR2023-00401	September 11, 2023
'821 Patent	IPR2023-00402	September 12, 2023
'111 Patent	IPR2023-00554	September 20, 2023

NOW THEREFORE, it is hereby stipulated and agreed, subject to the approval of the Court, that:

1. This case is stayed pending the issuance of the last final written decision from the PTAB in the above-listed IPR proceedings.

2. Within 30 days after the issuance of the last of the final written decisions from the PTAB, the parties shall submit a joint status report with the Court advising of the status of the case.

3. Pursuant to 35 U.S.C. § 315(e), upon issuance of the last final written decision in the above-listed IPR proceedings, Defendant agrees that it is hereby estopped from raising at trial any validity challenges against the patents-in-suit under 35 U.S.C. §§ 102-103 based on the grounds and prior art included in the grounds identified in the Cisco Petitions (the "Cisco Prior Art").[1] In the event that Defendant files petitions for IPR against the patents-in-suit and any of those IPRs reaches a final written decision, Defendant agrees that it is also estopped pursuant to 35 USC § 315(e).

[1] The Cisco Prior Art includes: (a) US Publication Nos. 2004/0228278 A1 ("Bruckman") and 2003/0210688 A1 ("Basso"), and Holdsworth et al., *Digital Logic Design*, Elsevier Science, 2002 (ISBN 0 7506 45882) ("Holdsworth") against the '740 Patent, (b) US Publication Nos. 2004/0205239 A1 ("Doshi"), 2003/0117950 A1 ("Huang"), and 2011/0141877 A1 ("Xu"), and Guichard et al., *Definitive MPLS Network Designs*, Cisco Press ("Guichard"), against the '821 Patent, and (c) US Patent No. 9,264,400 ("Lin") and US Publication Nos. 2013/0291088 ("Shieh") and 2013/0322242 A1 ("Swenson") against the '111 Patent.

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Attorneys for Defendant Arista Networks Inc.

December 1, 2023

SO ORDERED this 4th day of December 2023.

The Honorable Maryellen Noreika
United States District Judge

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