

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PALO ALTO NETWORKS, INC., CISCO SYSTEMS, INC.,
and KEYSIGHT TECHNOLOGIES, INC.,
Petitioners,*

v.

CENTRIPETAL NETWORKS, INC.,
Patent Owner.

IPR2022-00182
Patent 9,917,856 B2

Before AARON W. MOORE and STEVEN M. AMUNDSON,
Administrative Patent Judges.

AMUNDSON, *Administrative Patent Judge.*

ORDER
Conduct of the Proceeding
Withdrawal of Administrative Patent Judge Amundson
37 C.F.R. § 42.5

* Cisco Systems, Inc. filed a petition and a motion for joinder in IPR2022-01151 and has been joined as a petitioner in this proceeding. Keysight Technologies, Inc. filed a petition and a motion for joinder in IPR2022-01199 and has been joined as a petitioner in this proceeding.

Palo Alto Networks, Inc. (“PAN”) filed a Petition requesting an *inter partes* review of claims 1, 24, and 25 in U.S. Patent No. 9,917,856 B2 (Exhibit 1001, “the ’856 patent”) under 35 U.S.C. §§ 311–319. Paper 2. Centripetal Networks, Inc. (“Patent Owner” or “Centripetal”) filed a Preliminary Response. Paper 6. The Board instituted an *inter partes* review of claims 1, 24, and 25 in the ’856 patent. Paper 11.

In IPR2022-01151, the Board granted a petition and a motion for joinder to this proceeding filed by Cisco Systems, Inc. (“Cisco”). Paper 39.

In IPR2022-01199, the Board granted a petition and a motion for joinder to this proceeding filed by Keysight Technologies, Inc. (“Keysight”). Paper 41.

On December 30, 2022, without having sought the requisite authorization, Patent Owner filed a Motion for Recusal and Vacatur. Paper 37 (“Mot.”). Patent Owner asserts that Administrative Patent Judge McNamara has:

- (1) “owned Cisco stock and also has been paid a significant amount of money (apparently a share of the profits) from one of Cisco’s lobbyist law firms while he was deciding IPR petitions against patents that Centripetal has asserted against Cisco in litigation”; and
- (2) “maintained these financial interests for years while adjudicating challenges to Centripetal’s patents without notice, divestiture, or any apparent attempt to recuse.”

Mot. 1. Patent Owner asserts that “APJ McNamara should not participate in this IPR.” *Id.* at 12.

Additionally, Patent Owner contends that “these conflicts also cast a shadow over the entire panel of judges in this IPR.” Mot. 12. According to Patent Owner, “The participation of a judge who has a substantial interest in

the outcome of a case of which he knows at the time he participates necessarily imports a bias into the deliberative process. This deprives litigants of the assurance of impartiality that is the fundamental requirement of due process.” *Id.* (quoting *Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813, 831 (1986) (Brennan, J., concurring)). Patent Owner also contends that “judges who were exposed to a disqualified judge may still be influenced by their colleague’s views when they rehear the case.” *Id.* at 14 (quoting *Williams v. Pa.*, 579 U.S. 1, 16 (2016)).

Patent Owner argues that “there are well over 200 APJs who have not participated in this proceeding.” Mot. 14.

On January 5, 2023, Administrative Patent Judge McNamara withdrew from the panel to “reduce the number of issues and simplify the briefing” concerning Patent Owner’s motion. Paper 43, 3.

Patent Owner’s assertion that Administrative Patent Judge McNamara improperly participated in this proceeding lacks merit. Patent Owner’s assertion that Administrative Patent Judge McNamara improperly influenced “the entire panel of judges in this IPR” also lacks merit.

Nevertheless, to further “reduce the number of issues” presented by Patent Owner’s motion and give another judge as much time as possible to become familiar with the record before any due dates or deadlines, I withdraw from the panel effective immediately and will not further participate in this proceeding.

The Board will appoint a substitute judge to replace me.

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