Update on 944 ITC Investigation for 537 Patent and Redesign
April 7, 2017

Customs Border Patrol CBP Update

On April 7, 2017, U.S. Customs and Border Protection ("CBP") completed its review and once again ruled that Arista’s redesigned products do not infringe the ’592, ’145, or ’537 patents that were the subject of a limited exclusion order and cease and desist order issued by the United States International Trade Commission ("ITC") in Investigation No. 337-TA-944 and that Arista may resume importing its redesigned products into the United States. Arista is gratified by the dedication and thoroughness of CBP in reaffirming its original ruling that validates our good faith efforts to address the ITC’s findings.

This follows the January 15, 2017 decision by CBP to revoke its November 18, 2016 ruling that our redesigned products do not infringe the ’145, ’592, and ’537 patents. In connection with the revocation, CBP conducted an inter partes proceeding, in which both Arista and Cisco presented arguments, before issuing the April 7th ruling.

ITC Enforcement Update

The parties are also litigating whether the redesigned products infringe the ’537 patent in an ITC enforcement action initiated by Cisco on August 26, 2016 (three days after the end of the Presidential review period in the original investigation).

On April 4, 2017, the ITC staff attorney assigned to the enforcement action announced the Office of Unfair Import Investigation’s ("OUII") position on the merits. OUII serves as a neutral third party representing the interests of the public in ITC investigations. OUII takes the position that Arista’s redesigned products do not infringe the ’537 patent, that Arista has fully complied with the ITC’s orders, and that Arista acted in good faith in doing so. Both parties participated in a hearing for this matter on April 5, 2017. The ALJ’s initial determination is expected on June 20, 2017, and the ITC’s final determination is expected on September 20, 2017.

It is noteworthy that the ITC will independently evaluate the redesigned products and is not bound by CBP’s ruling. CBP is required to follow the ITC’s final determination. Arista appreciates the hard work and dedication of both the CBP and ITC teams to complete a thorough and reasonable ruling.