

## Application Available for Review and Comment

We invite local, state, Tribal, and Federal agencies, and the public to comment on the following application under the ICP, for incidentally taking the Federally-listed American Burying-beetle. Please refer to the proposed permit number (TE98456C) when requesting application documents and when submitting comments. Documents and other information the applicant submitted are available for review, subject to Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552) requirements.

### Permit TE98456C

*Applicant:* Ponderosa Gathering, LLC, Houston, TX.

Applicant requests a permit for oil and gas upstream and midstream production, including oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

### Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

### Authority

We provide this notice under the ESA, section 10(c) (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Dated: July 19, 2018.

**Amy Lueders,**

*Regional Director, Southwest Region, U.S. Fish and Wildlife Service.*

[FR Doc. 2018-20351 Filed 9-18-18; 8:45 am]

**BILLING CODE 4333-15-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-945]

### Certain Network Devices, Related Software and Components Thereof (II) (Modification 2); Grant of Joint Motion To Terminate the Modification Proceeding Based on a Settlement Agreement; Termination of the Modification Proceeding in Its Entirety

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined grant a joint motion of complainant Cisco Systems, Inc. of San Jose, California ("Cisco") and respondent Arista Networks, Inc. of Santa Clara, California ("Arista") to terminate the above-captioned modification proceeding concerning a limited exclusion order and a cease and desist order issued against Arista in Inv. No. 337-TA-945. The modification proceeding is terminated in its entirety.

**FOR FURTHER INFORMATION CONTACT:** Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-2301. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on January 27, 2015, based on a Complaint filed by Cisco. 80 FR 4313-14 (Jan. 27, 2015). The Complaint

alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), by reason of infringement of certain claims of U.S. Patent Nos. 7,023,853 ("the '853 patent"); 6,377,577 ("the '577 patent"); 7,460,492 ("the '492 patent"); 7,061,875 ("the '875 patent"); 7,224,668 ("the '668 patent"); and 8,051,211 ("the '211 patent"). The Complaint further alleges the existence of a domestic industry. The Commission's Notice of Investigation named Arista as the respondent. The Office of Unfair Import Investigations ("OUII") was also named as a party to the investigation. The Commission terminated the investigation in part as to certain claims of the asserted patents. Notice (Nov. 18, 2015) (see Order No. 38 (Oct. 27, 2015)); Notice (Dec. 1, 2015) (see Order No. 47 (Nov. 9, 2015)).

On June 11, 2016, the Patent Trial and Appeal Board ("PTAB") of the U.S. Patent and Trademark Office instituted separate *inter partes* review ("IPR") proceedings concerning the '577 and '668 patents. *Arista Networks, Inc. v. Cisco Systems, Inc.*, Case IPR2016-00303 (regarding the '577 patent); *Arista Networks, Inc. v. Cisco Systems, Inc.*, Case IPR2016-00309 (regarding the '668 patent).

On May 4, 2017, the Commission found a violation of section 337 with respect to certain of the asserted claims of the '577 and '668 patents. Notice (May 4, 2017); 82 FR 21827-29 (May 10, 2017); *see also* Notice of Correction (May 30, 2017); 82 FR 25811 (June 5, 2017). The Commission issued a limited exclusion order ("LEO") and a cease and desist order ("CDO") against Arista. *Id.* The Commission did not find a violation with respect to the '853, '875, '492, and '211 patents. *Id.*

On May 25, 2017, the PTAB issued its final written decision finding certain claims of the '577 patent unpatentable based on prior art not presented in the Commission investigation. On June 1, 2017, the PTAB issued its final written decision finding certain claims of the '668 patent unpatentable based on certain combinations of prior art not presented in the Commission investigation. Both decisions affected the claims upon which the Commission found a violation of section 337.

On June 30, 2017, Cisco filed a notice of appeal with the United States Court of Appeals for the Federal Circuit ("Federal Circuit"), seeking review of the Commission's finding of no violation as to the '853, '875, '492, and '211 patents. *Cisco Sys., Inc. v. Int'l Trade Comm'n*, Appeal No. 17-2289. On July 21, 2017, Arista filed a notice of appeal with the Federal Circuit,

seeking review of the Commission's finding of violation as to the '577 and '668 patents. *Arista Networks, Inc. v. Int'l Trade Comm'n*, Appeal No. 17–2336. On August 3, 2017, the Federal Circuit consolidated the Arista and Cisco appeals. *Cisco Sys., Inc. v. Int'l Trade Comm'n*, Appeal No. 17–2289, Dkt. No. 20.

On August 25, 2017, Arista filed a motion with the Federal Circuit seeking to stay the Commission's remedial orders pending resolution of the appeal on the merits. On September 22, 2017, the Federal Circuit denied this request "subject to the condition that the product redesign on which Cisco relies to deny irreparable harm must be permitted to enter the country, without being blocked by the Commission order under review in this case, unless and until Commission proceedings are initiated and completed to produce an enforceable determination that such a redesign is barred by the order here under review or by a new or amended order." *Cisco Sys., Inc. v. ITC; Arista Networks, Inc. v. ITC*, Appeal Nos. 2017–2289, –2351, Order at 3 (Fed. Cir. Sept. 22, 2017).

On September 27, 2017, Cisco petitioned for a modification proceeding to determine whether Arista's redesigned switches infringe the patent claims that are the subject of the LEO and CDO issued in this investigation and for modification of the remedial orders to specify the status of these redesigned products.

On November 1, 2017, the Commission instituted the modification proceeding. 82 FR 50678 (Nov. 1, 2017). On November 7, 2018, the Commission issued a notice clarifying that OUII is not named as a party in the modification proceeding. 82 FR 52318 (Nov. 13, 2017).

On February 14, 2018, the Federal Circuit summarily affirmed the PTAB's decision finding the claims of the '668 patent unpatentable. *Cisco Systems, Inc. v. Arista Networks, Inc.*, Appeal No. 17–2384, Order (Feb. 14, 2018). The Court issued the mandate on March 23, 2018. *Id.*, Dkt. No. 54.

On March 23, 2018, the ALJ issued a recommended determination in the modification proceeding ("MRD"), finding that Arista's redesigned products infringe the relevant claims of the '668 patent but do not infringe the relevant claims of the '577 patent. MRD (Mar. 23, 2018). Also on March 23, 2018, the ALJ issued an order denying Arista's motion to stay the modification proceedings or to stay the remedial orders with respect to the '668 patent. Order No. 20 (Mar. 23, 2018).

On April 5, 2018, the Commission determined to modify the remedial orders to suspend enforcement of those orders with respect to the '668 patent. Notice (Apr. 5, 2018); Comm'n Order (Apr. 5, 2018).

On June 26, 2018, the Commission accepted the ALJ's recommended determination finding no infringement with respect to the '577 patent and determined to modify the remedial orders to exempt Arista's redesigned products that were the subject of the modification proceeding. The Commission also determined to suspend the modification proceeding as to the '668 patent. The '577 patent expired on June 30, 2018.

On August 27, 2018, the Federal Circuit granted a motion of the parties to voluntarily dismiss the consolidated appeal from the Commission's final determination on violation. *Cisco Sys., Inc.*, Appeal No. 17–2289, Dkt. No. 121 (Aug. 27, 2018).

On August 27, 2018, Cisco and Arista filed a joint motion to terminate the modification proceeding in its entirety pursuant to Commission Rule 210.21(b)(1) (19 CFR 210.21(b)(1)) based on a settlement agreement between the parties. The motion indicates that the Agreement fully resolves the disputed issues in the modification proceeding, that there are no other agreements, written or oral, express or implied, between them concerning the subject matter of this proceeding, and that the motion includes a public version of this Motion along with an accompanying public version of the Agreement. The motion also contends that termination of the modification proceeding will not adversely affect the public interest.

The Commission has determined to grant the joint motion and terminate the modification proceeding in its entirety. We note that only the '668 patent remains in the modification proceeding.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: September 14, 2018.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2018–20363 Filed 9–18–18; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Sharon C. Worosilo, M.D., Decision and Order

On February 7, 2018, the Acting Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Sharon C. Worosilo, M.D. (Registrant), who is registered in Somerset and East Brunswick, New Jersey. The Show Cause Order proposed to revoke Registrant's two DEA Certificates of Registration, Nos. BW8636219 and BW4026375, pursuant to 21 U.S.C. 824(a)(3), on the ground that she does not have authority to handle controlled substances in New Jersey, the state in which she is registered with the DEA, and to deny any applications for renewal or modification and any applications for any other DEA registrations. GX 2 (Order to Show Cause), at 1.

With respect to the Agency's jurisdiction, the Show Cause Order alleged that Registrant is registered with the DEA as a practitioner authorized to handle controlled substances in schedules II through V under two DEA Certificate of Registrations: No. BW4026375 at the registered address of 49 Veronica Avenue, Somerset, New Jersey, and No. BW8636219, at the registered address of 620 Cranbury Road, Suite #115, East Brunswick, New Jersey. *Id.* at 2. The Order stated that both of Registrant's registrations were due to expire on May 31, 2018. *Id.*

Regarding the substantive grounds for the proceeding, the Show Cause Order specifically alleged that the New Jersey State Board of Medical Examiners issued an Order of Temporary Suspension "suspending [her] New Jersey medical license." "Consequently, the DEA must revoke [her] DEA registrations based on [her] lack of authority to handle controlled substances in the State of New Jersey." *Id.* at 2, citing 21 U.S.C. 824(a)(3) and 21 CFR 1301.37(b).

The Show Cause Order then notified Registrant of her right to request a hearing on the allegations, or to submit a written statement in lieu of a hearing, the procedure for doing either, and the consequence for failing to elect either option. *Id.* at 2, citing 21 CFR 1301.43. It also notified her of her right to submit a corrective action plan in accordance with 21 U.S.C. 824(c). *Id.* at 2–3.

On February 15, 2018, two DEA Diversion Investigators, accompanied by a Task Force Officer, personally served Registrant with the Order to Show