

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AVAYA INC., DELL INC., SONY CORPORATION OF AMERICA,
and HEWLETT-PACKARD CO.

Petitioners

v.

NETWORK-1 SECURITY SOLUTIONS, INC.

Patent Owner

CASE IPR2013-00071
U.S. Patent No. 6,218,930

Before the Honorable Joni Y. Chang, Justin T. Arbes, and Glenn J. Perry

REPLY TO PATENT OWNER'S RESPONSE

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I. Introduction

In this forum patentability is judged against the broadest reasonable interpretation (BRI) standard. Network-1 fails to apply that standard here.

First, Network-1 seeks to tack on an additional limitation to the Board's construction of "low level current" to require that an access device will not operate "at all reasonable data signaling pair lengths."

Second, Network-1 rewrites the Board's construction of "on the data signaling pair" by ascribing a technical meaning to the simple preposition "on" that requires strained expert testimony and hypothetical circuits for justification.

Third, Network-1 attempts to argue that an Integrated Services Digital Network (ISDN), which digitally transmits data, is not a "data network."

None of these attempts by Network-1 comply with the BRI standard, nor do they *patentably* distinguish over the instituted Grounds, as discussed below.

II. Matsuno's Low Voltage Power (-48 V) Provides "Low Level" Current

Network-1 improperly narrows the Board's interpretation of "low level current" by adding "at all reasonable data signaling pair lengths." Armed with this improper construction, it then elaborately argues, with flawed assumptions, that under certain line length conditions and access device types, that Matsuno's ISDN network could supply sufficient current to operate a device. Network-1's arguments for distinguishing Matsuno fail for three separate reasons.

First, there is no intrinsic support for “pair length” limitations. The '930 specification never mentions data signaling pair lengths, and it is silent about supplying operating power based on line length. Nor are there any such references in the prosecution history. That should end the matter.

Second, Network-1's assumptions are fatally flawed. Dr. Knox, who is admittedly not an expert in the ISDN field, relies on a series of misleading and self-serving assumptions to produce a scenario where operational power could be applied to some devices. *See* Knox Depo. (AV-1028) (“Knox Dep.”) at 200:16-21.

- Dr. Knox assumes parameters that deviate from the ISDN standard—a line resistance less than 20% of the actual IEEE standard ISDN design line resistance (247 ohms vs. 1300 ohms), and a subscriber service area representing only about 7.5% of the ISDN mandated actual subscriber area (4945 feet vs. 18000 feet). *See* Decl. of Dr. Zimmerman (AV-1041) (“2nd Zim. Dec.”) at ¶¶ 18 – 23.

- Dr. Knox's assumed power requirements are based on the improper selection of a ‘representative’ low power drawing “Class 1” Cisco Unified IP Phone 6945 (“Cisco Phone”), which was not introduced until 15 years *after* Matsuno's filing date. Even then, he assumed it would draw only 17% of its capable draw power. *See id.* at ¶¶ 24-25

- When asked to assume what would happen when slightly higher power Class 2 access devices were instead used with Matsuno's ISDN network,

Dr. Knox no longer affirmatively said they could operate with Matsuno's low voltage supply--just that such devices would not be *guaranteed* to operate. Dr. Zimmerman, however, concluded none of Cisco's Class 2 (or Class 3) devices would be operable. *See* Knox. Dep. at 54:12-24; *see also* 2nd Zim. Decl. at ¶¶ 27-30. Given that power consumption of networking equipment (assuming similar functionality) likely decreased in the 15 years between Matsuno and the Cisco Phone's introduction, Dr. Knox's power requirement assumptions are dramatically understated. *See* 2nd Zim. Decl. at ¶ 31; *see also* Knox. Dep. at 207:2-7.

Third, Matsuno discloses a low voltage power supply that is *insufficient* to operate its access devices, thus meeting the Board's construction for low level current. Network-1 argues that the low voltage power supply of Matsuno provides a current that is sufficient to operate at least some access devices at certain data signaling pair lengths. As the Board noted, however, if Matsuno's low voltage supply V_2 (-48 V) is supposedly sufficient, by itself, to operate its access device, then presumably there would be no need to switch to the high voltage supply V_1 (-120 V) when local power is unavailable. *See* Dell Decision at 15.

In response, Network-1 is forced to further posit that Matsuno is providing the high voltage power for the purpose of powering devices that require higher power or for devices further away. *See* Knox. Dep. at 214:16-215:4. Matsuno makes no such statements, however, nor can any such inference be drawn from its

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