

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Cisco Systems, Inc.
Petitioner

v.

Capella Photonics, Inc.
Patent Owner

Patent No. RE42,368
Filing Date: June 15, 2010
Reissue Date: May 17, 2011

Title: RECONFIGURABLE OPTICAL ADD-DROP MULTIPLEXERS WITH
SERVO CONTROL AND DYNAMIC SPECTRAL POWER MANAGEMENT
CAPABILITIES

Inter Partes Review No. 2014-01166

Petitioner's List of Proposed Motions

Pursuant to the Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48765-66 (August 14, 2012), Petitioner Cisco Systems, Inc., hereby submits the following list of proposed motions it is currently contemplating filing. Although motions to exclude evidence and motions for observations on cross-examination have been authorized by the Board, Cisco identifies such motions here to preserve its right to file them. This list is provided without prejudice to Petitioner's right to seek authorization to file additional motions pursuant to the Board's authorization or to refrain from filing the motions listed herein.

1. Motion to submit supplemental information pursuant to 37 CFR § 42.123 (e.g., Patent Owner's ("PO")'s interrogatory responses and related discovery regarding alleged conception, diligence and reduction to practice).¹
2. Motion for additional discovery pursuant to 37 CFR § 42.51(b)(2) (e.g., regarding (1) alleged conception, diligence and reduction to practice,

¹ Petitioner is concurrently filing a Request for Authorization to Move to Submit Supplemental Information. As explained in that Request, PO indicated in the associated District Court litigation that it will attempt to swear behind the prior art at issue in this IPR. PO also indicated it will may on alleged priority date evidence including documents that are solely in PO's and in third parties' possession. Thus, if PO pursues this argument, then in the interests of justice, Petitioner must be able to explore and test PO's claims and the evidence behind them.

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including such evidence in PO's or third parties' control; and/or (2) lack of indicia of non-obviousness). Some of this discovery is likely to involve third-party subpoenas to, e.g., the named inventors of the RE42,368 patent at issue. Again, such motion(s) would be contingent on the arguments PO makes.

3. Motion for extension of the hearing date and/or Petitioner's Opposition. This may be necessary to accommodate the time to issue and achieve compliance with subpoenas that may be required depending on PO's priority date arguments.
4. Motion to Seal (and for Protective Orders).
5. Motion to Compel Testimony and/or Motion for Live Testimony at oral argument (contingent again on PO's arguments).
6. Motion for observations on cross-examination as provided for in the Scheduling Order.
7. Motion to exclude evidence pursuant to 37 CFR § 42.64(c).
8. Motion to enlarge trial to include grounds denied as redundant.

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9. Motion pursuant to 37 C.F.R. § 42.222 to join a newly filed petition to this instituted IPR (Petition to be filed before February 28, 2015).

These proposed motions have been timely filed within one month of the date the trial was instituted, and at least two business days before any expected conference call with the Board.

Dated: February 26, 2015

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Respectfully submitted,
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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e) and 42.105(b), the undersigned certifies that on February 26, 2015, a complete and entire electronic copy of this **Petitioner's List of Proposed Motions for *Inter Partes* Review No. 2014-01166**, was served electronically via email in its entirety on the following counsel of record for Patent Owners:

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