

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC., CIENA CORPORATION, CORIANT
OPERATIONS, INC., CORIANT (USA) INC., AND FUJITSU
NETWORK COMMUNICATIONS, INC.,
Petitioner,

v.

CAPELLA PHOTONICS, INC.,
Patent Owner.

Cases IPR2014-01166 and IPR2014-01276
Patents RE42, 368 and RE42, 678

Held: November 5, 2015

BEFORE: JOSIAH C. COCKS, KALYAN K. DESHPANDE,
JAMES A. TARTAL, Administrative Patent Judges.

The above-entitled matter came on for hearing on Thursday,
November 5, 2015, commencing at 1:30 p.m., at the U.S. Patent
and Trademark Office, 600 Dulany Street, 9th Floor, Hearing
Room A, Alexandria, Virginia, before Melissa G. Fleming,
Professional Court Reporter.

Cases IPR2014-01166 and IPR2014-01276
Patents RE42,368 and RE42,678

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1 MR. EISENBERG: Jason Eisenberg for Patent Owner.
2 With me at counsel's table is Robert Greene Sterne. We also have
3 Nicholas Nowak here with us.

4 JUDGE TARTAL: Thank you and welcome.

5 We set forth the procedures for today's hearing in the
6 trial order. As a reminder, each party will have 60 minutes of
7 total time to present arguments in both cases. Petitioner has the
8 burden of proof and will go first.

9 The parties have agreed in advance that Petitioner will
10 open jointly for both cases. The Patent Owner will then present
11 opposition arguments jointly for both cases. And then to the
12 extent that Petitioner has reserved time, Petitioner will present
13 arguments and reply jointly for both cases.

14 The parties must at all times make clear which case they
15 are discussing so that we can maintain a clear transcript. Also for
16 clarity in the transcript, when you refer to an exhibit on the
17 screen, please state for the record the exhibit and page number or
18 for demonstratives the slide number to which you are referring.

19 We are aware that Patent Owner has filed objections to
20 Petitioner's demonstrative slides 2 to 23 or, rather, 3 to 23. We
21 reviewed the demonstratives and we are not going to rule on the
22 objections at this point. Petitioner is permitted to present the
23 slides as it chooses.

24 Both parties are reminded that demonstrative slides are
25 not evidence and will not be relied upon for a final decision.

1 Moreover, arguments raised for the first time during this hearing
2 or in a demonstrative will not be given weight in our final written
3 decision.

4 We remind each party that under no circumstances are
5 they to interrupt the other party while that party is presenting its
6 arguments and demonstratives. If a party wants to spend time
7 today arguing that a demonstrative or argument presented by the
8 other party is objectionable for any reason, that objection may be
9 voiced only during the objecting party's argument time.

10 For example, if Patent Owner wants to address an
11 objection to any slide presented or argument made by Petitioner,
12 Patent Owner may only voice that objection during Patent
13 Owner's allotted time to speak. If there's an issue with a
14 demonstrative or argument presented by the final party to speak,
15 the concerned party may request the opportunity to address its
16 objection before we adjourn the hearing.

17 Are there any questions on behalf of the Patent Owner
18 at this time?

19 MR. EISENBERG: No questions, Your Honor.

20 JUDGE TARTAL: Are there any questions on behalf
21 of Petitioner at this time?

22 MR. STACY: No.

23 JUDGE TARTAL: Petitioner, would you like to
24 reserve a certain amount of time for a reply?

25 MR. STACY: Yes. I was going to reserve 20.

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