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. RE42,678
Filing Date: June 15, 2010
Reissue Date: September 6, 2011

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

---

*Inter Partes* Review No. 2014-01276

**PETITIONER'S OBJECTIONS TO PATENT OWNER'S EVIDENCE SUBMITTED AFTER INSTITUTION OF A TRIAL UNDER 37 C.F.R. § 42.64(b)(1)**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner Cisco Systems, Inc. ("Petitioner") hereby objects to the following evidence submitted by Patent Owner Capella Photonics, Inc. ("Patent Owner") with the Patent Owner's Response under 37 C.F.R. § 42.120 (Paper 15):

1. Exhibits 2006, 2009, 2011, 2018 and 2024 are objected to because they are not authenticated as required by FRE 901 and Patent Owner has not established that they are self-authenticating under FRE 902. Because Patent Owner relies on these exhibits for the truth of the matters therein, these exhibits are further objected to as hearsay under FRE 801 and 802, and Patent Owner has not established that any of the exceptions to FRE 802 apply. For example, Patent Owner has not established whether particular declarants were employees of Petitioner or if their statements were made on a matter within the scope of their employment.

2. Exhibits 2006, 2009, 2011 and 2020 are also objected to because they are incomplete copies. Exhibit 2006 is missing multiple pictures and other information. See Ex. 2006 at 1. Exhibit 2009 contains only 7 pages of what appears to be a 91-page document. See Ex. 2009 at 5. Exhibit 2011 contains only 10 pages of what appears to be a 132-page document. See Ex.

2011 at 10. Exhibit 2020 contains only 41 pages of what appears to be a 371-page document. See Ex. 2020 at 24.

3. Exhibits 2009, 2019, 2020, 2023 and 2025 are objected to because they are irrelevant and are not admissible under FRE 401. These exhibits are not contemporaneous with the filing dates of the patents, and the exhibits have no probative value regarding the theories for which Patent Owner relies on these documents. For example, Exhibits 2006, 2009, and 2018 discuss products for which Patent Owner has not shown any relevance to this proceeding. Patent Owner has not shown that these products practice the claims of the '368 patent that are at issue in this proceeding.

4. Paragraphs 47, 53, 64, 66, 124, 147 and 158 of Exhibit 2004 are objected to because the declaration does not establish that these paragraphs are based on sufficient facts or data or are the product of reliable principals and methods. The declaration does not set forth the facts or data relied upon in reaching the opinions in conclusions therein. For example, these paragraphs are entirely conclusory without any supporting facts, analysis, or methodology set forth. Further, the statements in ¶¶ 53, 64, 66, 124, 147 and 158 are objected to on the basis that the declarant has not established he has personal knowledge of the statements recited therein as required by

FRE 602 and 701. Petitioner also objects to these statements to the extent the statements rely upon unreliable documents, including the unauthenticated hearsay documents identified in paragraph 1, above.

These objections have been timely made and served within five business days of service of the evidence to which the objections are directed.

Dated: May 26, 2015

Respectfully submitted,
**COOLEY LLP**

COOLEY LLP
ATTN: Wayne O. Stacy
1299 Pennsylvania Ave., NW, Suite 700
Washington, DC 20004
Tel: (720) 566-4000
Fax: (202) 842-7899

By: */ Matthew J. Leary /*
Matthew J. Leary
Reg. No. 58,593
Back-up Counsel

## CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e) and 42.105(b), the undersigned certifies that on May 26, 2015, a complete and entire electronic copy of this **Petitioner's Objections to Patent Owner's Evidence Submitted After Institution of a Trial Under 37 C.F.R. § 42.64(b)(1) for *Inter Partes* Review No. 2014-01276**, was served electronically via email in its entirety on the following counsel of record for Patent Owners:

Robert Greene Sterne (Lead Counsel)
Jon E. Wright (Backup Counsel)
Jason D. Eisenberg (Backup Counsel)
Nicholas J. Nowak (Backup Counsel)

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 New York Avenue, N. W.
Washington, D.C. 20005
E-mails:
rsterne-PTAB@skgf.com
jwright-PTAB@skgf.com
jasone-PTAB@skgf.com
nnowak-PTAB@skgf.com

By: */ Matthew J. Leary /*
Matthew J. Leary
Reg. No. 58,593
Back-up Counsel

116828851 v2