

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.
Petitioners,

v.

DSS TECHNOLOGY MANAGEMENT, INC.
Patent Owner

Case: IPR2015-00369
U.S. Patent No. 6,128,290

**PATENT OWNER DSS TECHNOLOGY MANAGEMENT, INC.'S
MOTION FOR OBSERVATION REGARDING CROSS-EXAMINATION
OF APPLE, INC.'S TECHNICAL EXPERT, DR. HU**

TABLE OF ABBREVIATIONS

Abbreviation	Explanation
'290 Patent	U.S. Patent No. 6,128,290 (Ex. 1001)
Natarajan	U.S. Patent No. 5,241,542 (Ex. 1003)
Neve	U.S. Patent No. 4,887,266 (Ex. 1004)
Ex.	This refers to the indicated exhibit
__:__	This refers to the indicated column or page and lines of the patent, patent publication or deposition transcript
POSA	Person of ordinary skill in the art
Schwartz	Mischa Schwartz, Telecommunications Networks: Protocols, Modeling and Analysis, Addison-Wesley, 1988 (Ex. 1012)

Pursuant to the Joint Stipulation to Modify Due Dates 4 and 5 in this proceeding (Paper 25), and the Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012), DSS Technology Management, Inc., (“Patent Owner”), respectfully brings this Motion for Observation Regarding Cross-Examination of Apple, Inc.’s (“Petitioner”) Technical Expert, Dr. Jing Hu. Patent Owner submits the following observations regarding Dr. Hu’s testimony during her deposition on February 17, 2016 (Ex. 2018).

Observation #1

In Ex. 2018, from 61:14 to 74:6, Dr. Hu refused to provide specific citations to support her conclusion that the combination of Natarajan and Neve **expressly** teaches a server transmitter energized in low-duty cycle RF bursts. Dr. Hu testified that she understood “expressly” to mean “the concept or the mechanism is taught in exact words as the ‘290 patent or in words and phrases that mean the exact tech- -- that have the same technical meaning to a person of ordinary skill in the art.” *Id.* at 62:14-19. When subsequently asked to identify the sections of Natarajan and Neve that expressly disclose a server transmitter energized in low-duty cycle RF bursts, Dr. Hu repeatedly testified that the support is provided in paragraphs 42, 43, and the next 20 or 30 pages of her declaration. *See id.* 63:10-74:6. This testimony is relevant because Dr. Hu was unable to provide specific support for her conclusion that the combination of Natarajan and Neve expressly teaches a server transmitter energized

in low-duty cycle RF bursts in accordance with her understanding of the term “expressly.”

Observation #2

In Ex. 2018, at 98:16-22, Dr. Hu read a portion of her declaration, stating, “Mr. Dezmelyk's lack of understanding of HDLC is further highlighted by his assertion that systems using idle words can have, for example, ten consecutive 1's. (Dezmelyk Depo at 98:1-13.) HDLC cannot have more than six consecutive 1's, otherwise an error is declared. (Schwartz, page 22 135-136.)” When Dr. Hu was subsequently asked if “it’s possible for an HDLC protocol to have a continuous string of 1’s,” Dr. Hu testified that some point-to-multipoint systems, operating in an HDLC protocol, may transmit invalid strings of 1’s (more than 6 consecutive 1’s) to fill the inter-frame time. *Id.* at 115:8-116:13; *see also* 110:22-111:7 (“A person of ordinary skill in the art at the time frame looking at this particular paragraph would understand that by using invalid data packets of logical -- of continuous 1’s in HDLC could be a mechanism that’s suitable”). This testimony is relevant because it contradicts Dr. Hu’s attempt to discredit Mr. Dezmelyk’s based on his assertion that HDLC systems may employ idle words having more than six consecutive 1’s.

Observation #3

In Ex. 2018, at 120:16-121:2, Dr. Hu testified, “One of ordinary skill in the art at the time frame of '96 and '97 would understand that [the] number [of consecutive 1’s] is system-specific. It will be a number that is agreed upon -- agreed upon by all units or all stations involved in the system or dictated by the central station that will signal that number to the rest of the system so everybody involved in the communication system has a consistent understanding of what constitutes the idle word.” This testimony is relevant because it directly contradicts Dr. Hu’s attempt at discrediting Mr. Dezmelyk’s assertion that systems using idle words can have, for example, ten consecutive 1's. *Id.* at 98:16-19; *see also* 1014 at pg. 35, ¶ 74.

Observation #4

In Ex. 2018, at 95:18-21, Dr. Hu testified, “I think in general usage of HDLC, outside of Natarajan, it's possible for an idle word to be transmitted using the HDLC protocol sporadically.” This testimony is relevant because it directly contradicts Dr. Hu’s testimony, in Ex. 1014 at pg. 35, ¶ 75, that “a POSA would understand that HDLC does not use idle words.” *See also* pg. 34, ¶ 72.

Observation #5

In Ex. 2018, at 114:22 to 115:1, Dr. Hu testified, “sending invalid 1 bits may not to be in all the start/stop transmission design. Whether it’s required will be based on the application and the system design itself.” This testimony is relevant because

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