

trials@uspto.gov

IPR2015-00726, Paper No. 37

IPR2015-00727, Paper No. 35

571-272-7822

June 21, 2016

RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FUJITSU NETWORK COMMUNICATIONS, INC., CORIANT
OPERATIONS, INC., CORIANT (USA) INC., CIENA CORPORATION

Petitioner

vs.

CAPELLA PHOTONICS, INC.

Patent Owner

Case IPR2015-00726 and IPR2015-00727

Application 12/816084

Technology Center 2800

Patents RE42,368E and RE42,678E

Oral Hearing Held: May 24, 2016

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

The above-entitled matter came on for hearing on May 24,
2016 at the U.S. Patent and Trademark Office, 600 Dulany Street,
Alexandria, Virginia in Courtroom A, at 1:00 p.m.

REPORTED BY: Karen Brynteson, RMR, CRR, FAPR

APPEARANCES:

ON BEHALF OF THE PETITIONER:

NATHANIEL T. BROWAND, ESQ.
Milbank, Tweed, Hadley & McCloy LLP
28 Liberty Street
New York, New York 10005-1413
212-530-5096
nbrowand@milbank.com

ON BEHALF OF THE PATENT OWNER:

ROBERT GREENE STERNE, ESQ.
JASON D. EISENBERG, ESQ.
JONATHAN TUMINARO, Ph.D., ESQ.
Sterne Kessler Goldstein Fox
1100 New York Avenue, N.W.
Washington, D.C. 20005
202-371-2600
rsterne@skgf.com

P R O C E E D I N G S

(1:00 p.m.)

JUDGE TARTAL: Good afternoon. Please take a seat.

Good afternoon and welcome. We're here for the final hearing in two separate inter partes review cases, both are captioned Fujitsu Network Communications Incorporated, Coriant Operations, Incorporated, Coriant (USA) Incorporated, and Ciena Corporation, Petitioner versus Capella Photonics, Incorporated, Patent Owner.

The first case is IPR2015-00726 concerning U.S. Patent RE42,368E, and the second case is IPR2015-00727, concerning U.S. Patent RE42,678E.

First let me begin by introducing the panel. I am joined by Judge Cocks to my right and Judge Deshpande. And I am Judge Tartal. Let's get the parties' appearances, please. Who do we have appearing today on behalf of Petitioner.

MR. BROWAND: Good afternoon, Your Honor, Daniel Browand on behalf of Petitioner, Fujitsu Network Communications, Inc.

JUDGE TARTAL: Good afternoon, counsel.

And now for Patent Owner, who do we have appearing today?

1 MR. STERNE: Good afternoon, Your Honor,
2 Robert Sterne for Patent Owner. With me is Jason Eisenberg,
3 lead counsel.

4 JUDGE TARTAL: Thank you and welcome.

5 And we set forth the procedures for today's hearing
6 in the trial order. As a reminder, each party will have 40
7 minutes of total time to present arguments in both cases.

8 The Petitioner has the burden of proof and will go
9 first. Petitioner will open jointly for both cases. Patent
10 Owner will then present opposition arguments jointly for both
11 cases. And then to the extent that Petitioner has reserved
12 time, Petitioner will present reply arguments jointly for both
13 cases.

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

20 We will remind each party that under no
21 circumstances are they to interrupt the other party during that
22 party's presentation, its arguments or demonstratives. Both
23 parties are reminded that demonstrative slides are not evidence
24 and will not be relied upon for a final decision.

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

4 Are there any questions on behalf of the Patent
5 Owner at this time?

6 MR. STERNE: Your Honor, can you tell me how
7 much time I have in the combined time frame?

8 JUDGE TARTAL: It is a total of 40 minutes, so 40
9 minutes for this proceeding.

10 MR. STERNE: 40 minutes for both cases?

11 JUDGE TARTAL: An additional 40 minutes for
12 this afternoon at 3:00 o'clock as well, yes.

13 Okay. Are there any questions on behalf of
14 Petitioner?

15 MR. BROWAND: None, Your Honor, although we
16 do have a little bit of technical difficulty. We're trying to get
17 set up.

18 JUDGE TARTAL: Okay. Feel free to try to
19 proceed with getting your presentation started.

20 Would Petitioner like to reserve any particular
21 amount of time for the rebuttal portion?

22 MR. BROWAND: Yes, Your Honor, we would like
23 to reserve ten minutes.

24 JUDGE TARTAL: There is a timer provided that
25 will give you an indication of how much of the 30 minutes you

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.