

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

CAPELLA PHOTONICS, INC.
Patent Owner

Case IPR2015-00727¹
Patent RE42,678

PATENT OWNER'S REQUEST FOR ORAL ARGUMENT

Mail Stop "PATENT BOARD"
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

¹ Case IPR2015-01961 has been joined with this proceeding

Pursuant to 37 C.F.R. § 42.70 and the Board's August 24, 2015 Scheduling Order (Paper 9), Patent Owner Capella Photonics, Inc. respectfully requests oral argument, which is currently scheduled for May 24, 2016. Patent Owner provides the following requests for efficient oral hearings across IPR2015-00726, -00727, -00731, and -00739²:

- At least 60 minutes per side for the oral argument;
- A single oral hearing for all four *inter partes* review proceedings because all four of these IPR proceedings involve: the same panel of judges (APJs Cocks, Deshpande, and Tartal), the same patent owner (Capella), the same primary applied reference (Bouevitch), and generally the same set of arguments and evidence;
- A shared oral hearing transcript for all four *inter partes* review proceedings;
- The parties can allot the amount of time that is appropriate across the 60 minutes to argue each of the four cases;
- The parties can assign different attorneys to argue different cases and different issues during the allotted time;

² Petitioners Lumentum and Fujitsu confirmed they will oppose Patent Owner's proposed oral hearing format.

- The argument take place in Conference Room A based on the number of Patent Owner participants and the number of Petitioners; and
- The argument start at 10AM EST.

Patent Owner specifies the following issues to be argued³:

1. [IPR2015-00726]: Whether claims 1, 2, 5, 6, 9–12, and 15–21 of U.S. Patent No. RE42,368 (“’368 patent”) are unpatentable under 35 U.S.C. § 103(a) over Bouevitch and Carr;
2. [IPR2015-00726]: Whether claims 1–4, 17, and 22 of the ’368 patent are unpatentable under 35 U.S.C. § 103(a) over Bouevitch and Sparks;
3. [IPR2015-00727]: Whether claims 1, 9, 10, 13, 17, 19, 44, 53, 61, 64, and 65 of U.S. Patent No. RE42,678 (“’678 patent”) are unpatentable under 35 U.S.C. § 103(a) over Bouevitch and Carr;
4. [IPR2015-00727]: Whether claims 1–4, 19–23, 27, 29, 44–46, and 61–63 of the ’678 patent are unpatentable under 35 U.S.C. § 103(a) over Bouevitch and Sparks;

³ Although this Request only applies to the IPR2015-00727 and IPR2015-01961 proceedings, all issues that would be argued if the requested single oral argument is granted are listed in this and all other related requests.

5. [IPR2015-00731]: Whether claims 1–6, 9–11, 13, and 15–22 of the '368 patent are unpatentable under 35 U.S.C. § 103(a) over Bouevitch, Sparks, and Lin;
6. [IPR2015-00731]: Whether claim 12 of the '368 patent is unpatentable under 35 U.S.C. § 103(a) over Bouevitch, Sparks, Lin, and Dueck;
7. [IPR2015-00739]: Whether claims 1–4, 9, 10, 13, 19–23, 27, 44–46, and 61–65 of the '678 patent are unpatentable under 35 U.S.C. § 103(a) over Bouevitch, Sparks, and Lin;
8. [IPR2015-00739]: Whether claims 17, 29, and 53 of the '678 patent are unpatentable under 35 U.S.C. § 103(a) over Bouevitch, Sparks, Lin, and Dueck;
9. Any issues specified by Petitioner in its Request for Oral Argument;
10. Rebuttal to Petitioner's presentation on all matters; and
11. Any other outstanding motions, pleadings, and other issues that the Board deems necessary for issuing a Final Written Decision.

Patent Owner requests the ability to use audio visual equipment to display possible demonstratives and exhibits, including the use of a computer, projector, and screen.

Date: April 14, 2016

Respectfully submitted,
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

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