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IPR2015-00726, Paper No. 37

IPR2015-00727, Paper No. 35

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June 21, 2016

RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

Petitioner

vs.

CAPELLA PHOTONICS, INC.

Patent Owner

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Case IPR2015-00726 and IPR2015-00727

Application 12/816084

Technology Center 2800

Patents RE42,368E and RE42,678E

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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:

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ON BEHALF OF THE PATENT OWNER:

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1 P R O C E E D I N G S

2 (1:00 p.m.)

3 JUDGE TARTAL: Good afternoon. Please take a  
4 seat.

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

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

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

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

21 JUDGE TARTAL: Good afternoon, counsel.

22 And now for Patent Owner, who do we have  
23 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

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