

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LUMENTUM HOLDINGS, INC., LUMENTUM, INC.,
LUMENTUM OPERATIONS, LLC, CORIANT OPERATIONS, INC.,
CORIANT (USA) INC., CIENA CORPORATION, CISCO SYSTEMS, INC., and
FUJITSU NETWORK COMMUNICATIONS, INC.

Petitioners

v.

CAPELLA PHOTONICS, INC.

Patent Owner

Case No. IPR2015-00731¹

Patent No. RE 42,368

**PETITIONERS' NOTIFICATION
REGARDING ORAL HEARING**

¹ Case IPR2015-01969 has been joined to this proceeding. This paper is a consolidated filing.

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Petitioners believe that oral hearings in this proceeding and the related proceeding IPR2015-00739 are unnecessary. Petitioners point out that the issues presented in this proceeding are substantially the same as those in *Inter Partes* Review No. 2014-01166, a proceeding in which the Board issued a Final Written Decision on January 28, 2016 (Paper 44), finding the identical set of challenged claims unpatentable over combinations of Bouevitch, Smith, Lin and Dueck. The challenge bases in the present proceeding are similar to those in *Inter Partes* Review No. 2014-01166, except that Petitioners rely on Sparks instead of Smith for disclosure of a two-axis MEMs mirror that is used for both switching and power control in optical switching devices. An oral hearing is therefore unlikely to materially develop the issues as presented in the written record, or to materially assist the Board in deciding the issues. An oral hearing would also require the expenditure of time, costs, and resources by the parties and the Board, which Petitioners believe is unnecessary based on the current state of the record.

For these reasons, Petitioners respectfully request that the Board not hold an oral hearing in this proceeding. *See Butamax Advanced Biofuels, LLC v. Gevo, Inc.*, IPR2014-00402, Paper 21 at 2 (Mar. 18, 2015) (noting that “in the panel’s view, this particular case has been briefed sufficiently such that no prejudice would arise should a hearing not be held,” and asking Patent Owner to reconsider its request for a hearing); *Motorola Mobility LLC v. Arnouse Digital Devs. Corp.*,

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IPR2013-00010, Paper 43 at 2 (Oct. 30, 2013) (noting that “this particular case has been briefed sufficiently such that no prejudice would arise should a hearing not be held,” asking Petitioner to reconsider its request for a hearing).

However, if the Board determines to hold an oral hearing in this proceeding, Petitioners intend to attend and present at such a hearing. Petitioners request that any such oral hearing be directed solely to the issues raised in this proceeding and the related proceeding IPR2015-00739. In particular, Petitioners request that any such oral hearing not be combined with any other proceedings on the challenged patent, such as IPR2015-00726, which involves different challenged claims and different prior art challenge bases.

In summary, Petitioners respectfully request that the Board not hold an oral hearing in this proceeding. If the Board does hold an oral hearing, Petitioners respectfully request the opportunity to appear and present at such hearing.

Dated: April 14, 2016

Respectfully submitted,

Faegre Baker Daniels LLP

Faegre Baker Daniels
2200 Wells Fargo Center
90 S. Seventh Street
Minneapolis, MN 55402
Tel: (612) 766-7000

By: / Walter Linder /
Walter C. Linder
Reg. No. 31, 707
Lead Counsel
Telephone: 612-766-8801

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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing Petitioners' Notification Regarding Oral Hearing to be served by email on the following:

Jason D. Eisenberg, Reg. No. 43,447
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 New York Avenue, N.W. Washington, D.C. 20005
E-mail: jasone-PTAB@skgf.com

Robert Greene Sterne, Reg. No. 28,912
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 New York Avenue, N.W. Washington, D.C. 20005
E-mail: rsterne-PTAB@skgf.com

Jon E. Wright, Reg. No. 50,720
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 New York Avenue, N.W. Washington, D.C. 20005
E-mail: jwright-PTAB@skgf.com

Nicholas J. Nowak
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 New York Avenue, N.W. Washington, D.C. 20005
E-mail: nnowak-PTAB@skgf.com

FAEGRE BAKER DANIELS LLP

Dated: April 14, 2016

Faegre Baker Daniels
2200 Wells Fargo Center
90 S. Seventh Street
Minneapolis, MN 55402
Tel: (612) 766-7000

By: / Walter Linder /
Walter C. Linder
Reg. No. 31, 707
Lead Counsel
Telephone: 612-766-8801