

1 UNITED STATES PATENT AND TRADEMARK OFFICE

2
3 BEFORE THE PATENT AND TRIAL APPEAL BOARD

4
5 JDS UNIPHASE CORPORATION

Petitioner

6
7 v.

8 CAPELLA PHOTONICS, INC.

9 Patent Owner

10 Case IPR2015-00713

Patent RE42,368

11 and

12 Case IPR2015-00739

13 Patent RE42,678

14
15
16
17 Videotape Deposition of SHELDON
18 MCLAUGHLIN, taken on Thursday, October 22, 2015,
19 beginning at 9:30 a.m., at the Law Offices of
20 Faegre Baker Daniels, LLP, 1050 K Street, N.W.,
21 Suite 400, Washington, D.C. before Ryan K.
22 Black, RPR, CLR, Notary Public, in and for the
23 District of Columbia.
24
25

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Page 2

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Page 4

1 THE VIDEOGRAPHER: We are now on

2 the record. Please note that the microphones

3 are sensitive and may pick up whispering and

4 private conversations. Please turn off all cell

5 phones and place them away from the microphones,

6 as they can interfere with the deposition audio.

7 Recording will continue until all parties -- all

8 parties agree to go off the record.

9 My name is Maribeth Powers,

10 representing Veritext. The date today is

11 October 22nd, 2015, and the time is

12 approximately 9:30 a m.

13 This deposition is being held at

14 Faegre Baker Daniels, LLP, located at 1050 K

15 Street Northwest, Suite 400, Washington, D.C.

16 The caption of this case is JDS

17 Uniphase Corporation versus Capella Photonics,

18 Incorporated, Case Number IPR2015-00739.

19 The name of the witness is Sheldon

20 McLaughlin.

21 At this time the attorneys present

22 in the room and attending remotely will identify

23 themselves and the parties they represent.

24 MR. NOWAK: Nicholas Nowak, with

25 Sterne Kessler Goldstein & Fox, for patent owner

Page 3

1 INDEX

2 TESTIMONY OF: SHELDON MCLAUGHLIN PAGE

3 BY MR. NOWAK.....5

4

5 ---

6

7 EXHIBITS

8 ---

9 NUMBER	DESCRIPTION	MARKED
10 Exhibit 1	the U.S. Patent 6,498,872	
11	to Bouevitch.....65	
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21		
22	Veritext Legal Solutions	
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24		
25		

Page 5

1 Capella. And with me is Tyler Dutton, from

2 Sterne Kessler, as well; Alexander Sergienko,

3 from Boston University; Rob Becker, from Manatt

4 Phelps and Phillips; and Jason Eisenberg, also

5 from Sterne Kessler Goldstein, all for patent

6 owner Capella.

7 MR. LIEBMAN: Ken Liebman, from Faegre

8 Baker Daniels, for the petitioner. With me is

9 my partner Walt Linder.

10 THE VIDEOGRAPHER: Our court reporter,

11 Ryan Black, will swear in the witness, and we

12 can proceed.

13 * * *

14 Whereupon --

15 SHELDON MCLAUGHLIN,

16 called to testify, having been first duly sworn

17 or affirmed, was examined and testified as

18 follows:

19 EXAMINATION

20 BY MR. NOWAK:

21 Q. Good morning, Mr. McLaughlin --

22 McLaughlin.

23 A. McLaughlin.

24 Q. McLaughlin.

25 Have you ever been deposed before?

Page 6

1 A. No.

2 Q. Have you ever provided testimony

3 in -- in a litigation?

4 A. No.

5 Q. Have you ever been asked to act as an

6 expert in litigation?

7 A. No.

8 Q. Who -- who do you work for currently?

9 A. I work for Lumentum.

10 Q. And, Lumentum, is that Lumentum -- is

11 that Lumentum -- well, I understand that there

12 are three Lumentum entities; is that right?

13 A. I don't know.

14 Q. Okay. Do you work for Lumentum, Inc.?

15 A. I'm not sure. I only know it as

16 Lumentum.

17 Q. Did you formerly work for JDS

18 Uniphase?

19 A. Yes, I did.

20 Q. And did JDS Uniphase go through a

21 reorganization recently?

22 A. Yes.

23 Q. All right. And do you have any

24 understanding at all regarding the details of

25 that reorganization?

Page 7

1 A. Some.

2 Q. Okay. I'm just asking, and I

3 don't want to really get into the de -- get into

4 the details, I'm just looking to see if I can

5 figure out how many entities were created from

6 that reorganization. Do you know?

7 A. As I understand it, there was

8 Viavi and Lumentum created out of JDS Uniphase.

9 Q. Okay. So -- so do you know -- my

10 understanding is that there were three -- there

11 are three Lumentum entities, Lumentum Holdings,

12 Inc.; Lumentum, Inc.; and Lumentum Operations,

13 LLC. Does that make -- does that sound familiar

14 to you at all?

15 A. It's possible. I've heard those

16 names.

17 Q. So which one do you work for? Do you

18 know?

19 A. I don't know.

20 Q. Okay. That's fine.

21 Let me start with your educational

22 background. Where did you go to college?

23 A. I went to Queens University in

24 Kingston, Ontario, and Simon Fraser University

25 in Burnaby, British Columbia. And I also

Page 8

1 completed some education at the University of

2 Arizona in Tucson.

3 Q. Okay. So was that all undergraduate?

4 A. No. Queens University was

5 undergraduate. Simon Fraser University was a

6 master's degree, and University of Arizona was a

7 postgraduate certificate.

8 Q. Okay. And what was your undergraduate

9 degree in?

10 A. It was in engineering physics.

11 Q. Okay. And when did you get that?

12 A. 1996.

13 Q. And then that was with Queens

14 University; is that right?

15 A. That's right.

16 Q. And after Queens University, what did

17 you do?

18 A. I worked for a summer at Bell-Northern

19 Research, and then I went to Simon Fraser

20 University for the master's degree.

21 Q. And what did you do during that summer

22 at Bell-Northern?

23 A. I worked in the epitaxy lab, setting

24 up experiments to monitor epitaxial growth of

25 semiconductors.

Page 9

1 Q. Okay. And so after that -- and after

2 that -- I'm sorry. After that summer, you went

3 to Simon Fraser, is that right, and you got a

4 master's in what?

5 A. In engineering science.

6 Q. And what was the -- was there a

7 particular focus of your master's?

8 A. Yes. It was on compound semiconductor

9 devices.

10 Q. And when did you complete your

11 master's?

12 A. In 1999.

13 Q. And after you completed your master's,

14 what did you do then?

15 A. I started working at JDS Uniphase.

16 Q. So you started working at JDS Uniphase

17 in 1999?

18 A. That's correct.

19 Q. Okay. What position did you start at

20 at JDS Uniphase?

21 A. I -- I don't recall the title. It was

22 something like product development engineer.

23 Q. Okay. And what did you work on?

24 A. I worked on product development of

25 several fiber-optic components.

Page 10

1 Q. Were there particular products you
2 were working on at that time?
3 A. Yes.
4 Q. And what were they?
5 A. I started working on a diffraction
6 grading-based WDM, Wavelength Division
7 Multiplexer, also a -- an Etalon-based Tunable
8 Dispersion Compensator, and, following that,
9 a PLC-based Reconfigurable Optical Add-drop
10 Multiplexer.
11 Q. So you were working on, it sounds
12 like, three different products. Is that,
13 generally speaking, correct?
14 A. I've worked on a lot of products since
15 then, but --
16 Q. Sure. I'm sorry. I didn't mean
17 to interrupt. I'm just trying to get a sense,
18 so when -- so you mentioned three different
19 products in your last answer, --
20 A. Yes.
21 Q. -- what was the time frame during
22 which you worked on those products?
23 A. That would be, approximately, 1999 to
24 2001.
25 Q. You said you worked on fiber-optic

Page 11

1 components?
2 A. Yes.
3 Q. So did you work on fiber-optic
4 components for each of those products?
5 A. I would consider those products to be
6 fiber-optic components.
7 Q. Okay. So, in your mind, they're one
8 and the same, the fiber-optic components and the
9 products are one and the same?
10 MR. LIEBMAN: Object to the form.
11 THE WITNESS: Yes.
12 BY MR. NOWAK:
13 Q. Okay. Okay. You said -- I'm just
14 going to try to go through those three products
15 that you worked on in order, and forgive me if I
16 get them wrong or if I don't remember their
17 names exactly. So you worked first, you said,
18 on a Diffraction Grading-based WDM?
19 A. Yes.
20 Q. Can I ask you, what stage of
21 development was that particular product in when
22 you started working on it?
23 A. I think it was in pilot manufacturing.
24 Q. So what were your responsibilities
25 for -- with regard to that WDM?

Page 12

1 A. I was in charge of process development
2 for preparation and pigtailling of a PLC chip.
3 Q. Okay. Can you -- what's PLC chip?
4 A. Planar Lightwave Circuit.
5 Q. Okay. And you said you were in charge
6 of process development. What does that entail?
7 A. The -- setting up the equipment
8 and the process, as the operator is used, to
9 manufacture the part.
10 Q. Okay. And is that a component of that
11 WDM that we were --
12 A. Yes.
13 Q. -- discussing?
14 What does that -- what does that PLC
15 chip do?
16 A. In that product, the PLC chip was an
17 interface between a fiber array and free-space
18 optics.
19 Q. So you say it was an -- okay, it
20 was an interface between a fiber array and
21 free-space optics. If you were going to
22 describe that to a layperson -- let me ask
23 you -- let me ask you a question: If you were
24 going to try to describe what that PLC chip does
25 to a layperson, what would the explanation be?

Page 13

1 MR. LIEBMAN: Object to the form.
2 THE WITNESS: I would describe the
3 function of the PLC chip as conducting light
4 from a fiber into a free-space optical system.
5 BY MR. NOWAK:
6 Q. And -- and what is a free-space
7 optical system?
8 A. It's a -- a system where it comprises
9 optical elements, such as lenses, diffraction
10 gradings, mirrors, and the light passes through.
11 Q. So your responsibilities with regard
12 to that WDM that we've been talking about didn't
13 involve the free-space optics; is that right?
14 A. Not directly.
15 Q. Were those already -- those had
16 already been developed by the time you were
17 working on the project?
18 A. Yes.
19 Q. I'm going to need your help instead
20 of scrolling all the way back to your prior
21 answer. You said the -- the second project
22 that you worked on involved what again?
23 A. Etalon Tunable Dispersion Compensator.
24 Q. Okay. And what is that?
25 A. It's a -- it's a form of optical

Page 14

1 filter that -- that produces a chromatic
2 dispersion that's tunable in response to a
3 control signal.
4 Q. Okay. And is there a -- is that a
5 component of a larger device?
6 A. It would be used as a component in an
7 optical network.
8 Q. Okay. And where in the optical
9 network would it be used?
10 A. Generally, at a switching and/or
11 amplification node.
12 Q. Okay. And -- and where within
13 the -- you say within the switching or
14 amplification node. Is there a particular
15 location within that node that it would be used?
16 A. There are lots of locations it could
17 be used. There's no -- as far as I don't -- no,
18 I don't know of a preferred location in the
19 node.
20 Q. Okay. And then the -- the third
21 product that you worked on, again, I would
22 scroll back, but it's going to take me a while,
23 can you remind me?
24 MR. LIEBMAN: Object to the form.
25 THE WITNESS: The third product I

Page 15

1 mentioned was a Reconfigurable Optical Add-drop
2 Multiplexer, or ROADM, in PLC.
3 BY MR. NOWAK:
4 Q. Can you describe the specific work
5 that you did on that multiplexer?
6 A. I did design and testing of several of
7 the PLC building blocks that were assembled to
8 make the ROADM system.
9 Q. Okay. So is the work -- so you
10 described doing work on a PLC chip earlier.
11 Is that similar to the work that you did on this
12 particular multiplexer?
13 A. On the PLC chip I described earlier,
14 my work was related to product and process
15 development for manufacturing. On the ROADM,
16 my work was related to design and testing of
17 the -- of the product.
18 Q. So was the -- was the -- was the
19 product already in development at that point,
20 at the point you started working on it?
21 A. I started at the start of development
22 of that product, --
23 Q. And --
24 A. -- meaning -- meaning the ROADM
25 product.

Page 16

1 Q. And let me ask you, is -- what does
2 ROADM stand for again?
3 A. Reconfigurable Optical Add-drop
4 Multiplexer.
5 Q. And what -- what does reconfigurable
6 mean in that name?
7 A. It means that the light path through
8 the device can be modified in response to an
9 external command.
10 Q. Is that different than a Configurable
11 Optical Add-drop Multiplexer?
12 MR. LIEBMAN: Object to the form.
13 THE WITNESS: In my mind, configurable
14 and reconfigurable mean the same thing in this
15 context.
16 BY MR. NOWAK:
17 Q. When you say in this context, what is
18 the context you are talking about?
19 A. In the context of fiber-optic devices.
20 Q. But you've heard them called -- I'm
21 assuming you've heard of the term Configurable
22 Optical Add-drop Multiplexer; is that right?
23 A. Yes.
24 Q. Okay. And, obviously, you worked on
25 Reconfigurable Optical Add-drop Multiplexers; is

Page 17

1 that correct?
2 A. Yes.
3 Q. So the -- the terms are used -- are
4 the terms -- terms used synonymously or
5 differently in the industry?
6 MR. LIEBMAN: Object to the form.
7 THE WITNESS: At the time, meaning
8 around 2001/2002, I believe the terms were used
9 synonymously.
10 BY MR. NOWAK:
11 Q. Okay. And are they used differently
12 now?
13 A. I don't think that the term
14 configurable is used very often, if at all, now.
15 But I don't -- I don't -- I'm not aware of any
16 difference in the use of the terms.
17 Q. Okay. So in 1999 when you started
18 working at -- that was when you started working
19 as JDS Uniphase; is that right?
20 A. That's right.
21 Q. In your mind, was there any difference
22 between the terms, just for short, let's just
23 call them COADMs and ROADMs, is that all right?
24 A. Yes.
25 Q. Okay. In 1999, when you started

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