

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

~~JDS Uniphase Corporation~~ Coriant Operations, Inc.,

Coriant (USA) Inc.,

Ciena Corporation,

Cisco Systems, Inc. and

Fujitsu Network Communications, Inc.

-Petitioner

v.

Capella Photonics, Inc.
Patent Owner

Patent No. RE42,678

Filing Date: June 15, 2010

Reissue Date: September 6, 2011

Title: RECONFIGURABLE OPTICAL ADD-DROP MULTIPLEXERS WITH
SERVO CONTROL AND DYNAMIC SPECTRAL POWER MANAGEMENT
CAPABILITIES

Inter Partes Review No. Unassigned

**PETITION FOR *INTER PARTES* REVIEW
UNDER 35 U.S.C. §§ 311-319 AND 37 C.F.R. § 42.100 ET SEQ.**

TABLE OF CONTENTS

I.	INTRODUCTION.	1
II.	MANDATORY NOTICES UNDER 37 C.F.R. § 42.8(A)(1)	1
	A. Real Party-In-Interest under 37 C.F.R. § 42.8(b)(1)	<u>21</u>
	B. Related Matters under 37 C.F.R. § 42.8(b)(2).....	2
	C. Lead and Back-Up Counsel under 37 C.F.R. § 42.8(b)(3).....	3
	D. Service Information	<u>35</u>
	E. Powers of Attorney	<u>45</u>
III.	PAYMENT OF FEES - 37 C.F.R. § 42.103	<u>45</u>
IV.	REQUIREMENTS FOR INTER PARTES REVIEW UNDER 37 C.F.R. § 42.104	<u>45</u>
	A. Grounds for Standing under 37 C.F.R. § 42.104(a)	<u>45</u>
	B. Identification of Challenge under 37 C.F.R. § 42.104(b) and Statement of Precise Relief Requested	<u>46</u>
	C. Threshold Requirement for Inter partes Review 37 C.F.R. § 42.108(c) ...	<u>67</u>
V.	BACKGROUND OF TECHNOLOGY RELATED TO THE ‘678 PATENT	<u>67</u>
VI.	SUMMARY OF THE ‘678 PATENT	<u>910</u>
VII.	CLAIM CONSTRUCTION UNDER 37 C.F.R. § 42.104(B)(3)	<u>112</u>
	A. Legal Overview.....	<u>112</u>
	B. “continuously controllable/[controlling]”(claims 1, 44, 61) and continuously pivotable” (claims 9 and 27)	<u>112</u>
	C. “servo-control assembly” and “servo-based” (claims 2-4, 21-23, 27, 29, and 45-46)	<u>1213</u>
	D. “spectral monitor” (claims 3, 22, and 46).....	<u>1314</u>
	E. “beam-focuser” (claims 1, 21, 44).....	<u>1415</u>
	F. [Controlling] “in two dimensions” (claim 61).....	<u>1516</u>

- G. “control the power of said received spectral channels” (e.g., claims 1 and 44) and “to control the power of the spectral channels” (claim 61).....[1617](#)
- H. “optical sensor” (claim 20)[1617](#)
- I. “fiber collimators are arranged in a one-dimensional array” (claim 13)[1617](#)

VIII. CLAIMS 1-4, 9, 10, 13, 17, 19-23, 27, 29, 44-46, 53, AND 61-65 OF THE ‘678 PATENT ARE UNPATENTABLE.....[1617](#)

- A. Bouevitch, Sparks, Lin and Dueck are all prior art to the ‘678 patent..[1718](#)
- B. Overview of the Bouevitch Prior Art.....[1819](#)
- C. Overview of the Sparks Prior Art[1920](#)
- D. PHOSITA had ample motivation to combine Bouevitch with Sparks, including the motivations disclosed in both references.....[1920](#)
- E. ~~Bouevitch and Sparks Render Obvious~~ All Petitioned Claims are Obvious[2425](#)
 - 1. Claim 1[2425](#)
 - 2. Claim 237
 - 3. Claim 3[4041](#)
 - 4. Claim 443
 - 5. Claim 9[4445](#)
 - 6. Claim 1045
 - 7. Claim 1345
 - 8. Claim 17—Grounds ~~1, 2, 3 and 4~~46
 - 9. Claim 1948
 - 10. Claim 2048
 - 11. Claim 2149
 - 12. Claim 2251
 - 13. Claim 2351
 - 14. Claim 2751

Petition for *Inter Partes* Review of
U.S. Reissued Patent No. RE42,678

15. Claim 29	52
16. Claim 44	52
17. Claim 45	55
18. Claim 46	55
19. Claim 53	55
20. Claim 61	55
21. Claim 62	58
22. Claim 63	59
23. Claim 64	59
24. Claim 65	60

List of Exhibits Cited in this Petition¹

- Exhibit 1001: U.S. Reissued Patent No. RE42,678 to Wilde et al. (“‘678 patent”)
- Exhibit 1002: File History of U.S. Patent No. RE42,678 to Wilde et al. (“‘678 File History”)
- Exhibit 1003: U.S. Patent No. 6,498,872 to Bouevitch et al. (“Bouevitch”)
- Exhibit 1004: U.S. Patent No. 6,625,340 to Sparks et al. (“Sparks Patent,” or “Sparks”)
- Exhibit 1005: Excerpts from Born et al., PRINCIPLES OF OPTICS, (6th Ed., Pergammon Press 1984)
- Exhibit 1006: U.S. Patent No. 6,798,992 to Bishop et al. (“Bishop”)
- Exhibit 1007: U.S. Patent No. 6,507,421 to Bishop et al. (“Bishop ‘421”)
- Exhibit 1008: Provisional Patent App. No. 60/277,217 (“‘678 Provisional”)
- Exhibit 1009: U.S. Patent No. 6,253,001 to Hoen (“Hoen”)
- Exhibit 1010: U.S. Patent No. 5,661,591 to Lin at al. (“Lin”)
- Exhibit 1011: Doerr et al., An Automatic 40-Wavelength Channelized Equalizer, IEEE Photonics Technology Letters, Vol., 12, No. 9, (Sept. 2000)
- Exhibit 1012: U.S. Patent No. 5,936,752 to Bishop et al. (“Bishop ‘752”)
- Exhibit 1013: Excerpt from New World English Dictionary (“servo” and “servomechanism”)

¹ [All exhibits filed with the Petition were copied exactly from IPR2015-00739, except that the prefixes of the exhibit numbers from IPR2015-00739 have been redacted. The exhibit numbers are otherwise identical.](#)

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.