UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Emerson Electric Co.,
Petitioner

v.

Sipco, LLC,
Patent Owner

Case IPR2015-01973
U.S. Patent 8,013,732

PATENT OWNER SIPCO LLC'S OBSERVATIONS ON CROSS-EXAMINATION OF DR. HEPPE

Patent Owner, Sipco, LLC, hereby files observations on the testimony given by Petitioner's Declarant Dr. Heppe (Exhibit 2010) at a deposition held on September 8, 2016.

(1) Testimony From Dr. Heppe Indicating That He Would Understand The Claim Term Function Within The Context Of The '314 Patent As A Code For An Action Or Type Of Data. At the following transcript locations (Exhibit 2010), when asked questions relating to the meaning of the claim term "function," Dr. Heppe testified that it would mean a code for an action or a type of data:

> Q. And when you answered at least those elements would be within the scope [of the claim term function], what elements are you referring to?
>
> A. So, one would be an action that could be performed. Another would be describing a type of data being sensed, so that you can characterize it for interpretation at some other location or node.
>
> (Ex. 2010, p. 12, ll. 13-20).

The testimony is relevant because the reference alleged by Petitioner to teach a function code (*i.e.*, Burchfiel), does not teach either of the items mentioned by Dr. Heppe (*i.e.*, a code for an action or type of data); Burchfiel instead discloses an address to a process.

(2) Testimony From Dr. Heppe Indicating That A Person Of Ordinary Skill In

The Art Would Have Understood The Claim Term Code At The Effective Filing Date Of The '732 Patent As Software Code, An Access Code, A Personal Identification Number (PIN), a Pseudo-Random Noise (PN) Code, a Command Code, An Op Code, A Frequency Hopping Code. At the following transcript locations (Exhibit 2010), when asked questions relating to the meaning of the claim term "code," Dr. Heppe testified that it would mean software code, an access code, a personal identification number (PIN), a pseudo-random noise (PN) code, a command code, an Op Code, a frequency hopping code:

> Q. How would one of ordinary skill in the art as of the filing date of the '732 patent understand the term, code?
>
> MR. JACKSON: Objection.
>
> THE WITNESS: So, code has a very wide variety of possible interpretations, depending on context. It could mean software code, so it could be program instructions. It could mean an access code, such as a pin, a personal identification number, or a password. It could mean a encoded version of text, such as encrypted text. It could mean a indexed, and one element of an indexed set, such as a command code or an op code. There is probably others. So, I'm not sure I can come up with all of the contextual interpretations of the word, code, that would be known in the industry. But, there is certainly a wide variety of

interpretations for that word by itself. There is also a PN code. So, in the context of Kahn, for example, Kahn describes various spread spectrum multiple access techniques, including direct sequence spreading and I believe frequency hopping. I would have to go back and check to see if he actually did both of those, but certainly he addressed spread spectrum. So, there are pseudorandom noise codes, and there is frequency hopping codes and there is, that represent in a sense independent and to some degree uncorrelated or at least only partially correlated sequences. So, again, there is a wide variety of possible interpretations for the word, code.

(Ex. 2010, p. 17, l. 12 – p. 19, l. 4).

The testimony is relevant because the reference alleged by Petitioner to teach a function code (*i.e.*, Burchfiel), does not teach any of the items mentioned in Dr. Heppe's recitation of the understanding that a person of ordinary skill in the art would have had of the claim term "code." Burchfiel instead discloses an address (which was ***not mentioned as being a code*** in Dr. Heppe's testimony).

(3) Testimony From Dr. Heppe Indicating That A Person Of Ordinary Skill In the Art Would Have Understood The Claim Term "Unique" To Be Associated With A Particular Device And No Other Device.

At the following transcript locations (Exhibit 2010), when asked a question relating to the meaning of the claim term "unique," Dr. Heppe testified that a person of ordinary skill in the art would have understood the claim term "unique" to be associated with a particular device and no other device:

> Q. And how would a person of ordinary skill in the art have defined the claim term, unique?
> MR. JACKSON: Objection.
> THE WITNESS: Assigned -- so, in a computer communication system, of which there is a large variety, including things like telephones and e-mail systems and so on, as well as packet radios, the, in order to ensure that messages get to the intended destination, assuming that you want to address messages to particular destinations, as opposed to other destinations, you need to assign a code that is not repeated elsewhere in the network. At least that is the normal way that people would interpret the word, unique. So, ***unique would be that you have a code or an address that is identified and associated with a particular device and no other device***. (Exhibit 2010, p. 35, l. 11 – p. 36, l. 8, emphasis added).

This testimony is relevant because the prior art asserted by the Petitioner does not disclose any codes that are associated with a particular device and no other device (*i.e.*, does not disclose codes that are unique).

(4) Testimony From Dr. Heppe Indicating That The So Called Admitted Prior Art Does Not Teach A Function Code That Is Unique To A Transceiver: At the following transcript locations (Exhibit 2010), when asked a question about whether the

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