

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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HUGHES NETWORK SYSTEMS, LLC,  
Petitioner,

v.

ELBIT SYSTEMS LAND AND C4I LTD.,  
Patent Owner.

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Case IPR2016-00135  
Patent 7,245,874

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Before SALLY C. MEDLEY, RAMA G. ELLURU, and WILLIAM M.  
FINK, *Administrative Patent Judges*.

ELLURU, *Administrative Patent Judge*.

DECISION  
Denying Institution of *Inter Partes* Review  
*37 C.F.R. § 42.108*

IPR2016-00135  
Patent 7,245,874

Hughes Network Systems, LLC (“Petitioner”) filed a petition (“Pet.”) to institute an *inter partes* review of claims 1 and 8–12 of U.S. Patent No. 7,245,874 (Ex. 1001, the “’874 patent”). Paper 1. Patent Owner, Elbit Systems Land and C4I Ltd., filed a Preliminary Response (“Prelim. Resp.”). Paper 7. We have jurisdiction under 35 U.S.C. § 314, which provides that an *inter partes* review may not be instituted “unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” For the reasons that follow, we deny an *inter partes* review of claims 1 and 8–12 of the ’874 patent.

## I. BACKGROUND

### A. *Related Proceedings*

Petitioner avers that the ’874 patent is involved in the following pending district court action: *Elbit Systems Land and C4I Ltd. et al. v. Hughes et al.*, Case No. 2:15-CV-37 (E. D. Tx.).

### B. *The ’874 Patent* (Ex. 1001)

The ’874 patent is directed toward infrastructure for a telephony network, including backbone and peripheral infrastructure for a cellular telephony network. Ex. 1001, 1:6–9. The Specification explains that the telephony system is generally based on “E1” or “T1” protocols, which are

strongly synchronous in that the individual transmission to which a time slot is assumed to belong to is determined from its temporal position amongst the other time slots. Thus an individual transmission which does not have current data creates blank slots to reserve its current position.

*Id.* at 1:26–33. The Specification also explains that “[m]uch available data carrying capacity is based on the TCP/IP” protocol,” which

involves individual data packets being sent out over a network in accordance with destination information contained in a packet header. A single transmission is thus broken down into numerous

packets which are each sent out independently over the network. The packets may be sent along different routes depending on availability and may not arrive in the order in which they have been sent. However the packet headers may be used by the receiving application to rebuild an original sequence from the packets.

*Id.* at 1:34–43. The Specification contrasts the E1 (and T1) protocol, which it characterizes as depending on the preservation of a temporal relationship between time slots, with the TCP/IP protocol, which does not preserve timing information. *Id.* at 1:44–46.

In addition, the Specification describes the problem in the prior art as not being able to use TCP/IP based capacity to transport E1 data because “synchronization is not preserved, rendering the E1 datastream irrecoverable.” *Id.* at 1:47–49. The objectives of the ’874 patent invention include providing IP based infrastructure and infrastructure backup for cellular telephony networks and providing IP based backbone infrastructure and infrastructure backup for cellular telephony based networks. *Id.* at 1:56–61.

*C. Illustrative Claim*

Of challenged claims 1 and 8–12, claim 1 is the only independent claim and claims 8–12 depend directly or indirectly from claim 1. Claim 1 is illustrative of the challenged claims and is reproduced below with the claim language at issue highlighted:

1. A branch of a cellular telephone network based on a first synchronous data communication protocol, comprising interfaces to a satellite link using a second, asynchronous, data communication protocol, wherein said interfaces comprise converters for converting data of a datastream between said first data communication protocol and said second data communication protocol, and *wherein said synchronous data protocol allows non-data carrying time*

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*slots, and said interfaces comprising a non-data carrying time slot remover for removing said non-data carrying time slots during conversion into said asynchronous protocol and a time slot regenerator for regenerating non-data carrying time slots during reconstruction of said datastream.*

*D. Prior Art Relied Upon*

Petitioner relies upon the following prior art references (Pet. 2–3), and the Declaration of Dr. Raymond Leopold (“Leopold Decl.”) (Ex. 1003):

Reference	Patent	Date	Exhibit
Cox	U.S. Patent No. 6,459,708	December 21, 1999	Ex. 1004
Silverman	U.S. Patent No. 6,731,649	July 26, 2000	Ex. 1005
Arimilli	Application No. WO 95/29576	November 2, 1995	Ex. 1006
Henkel	Canadian Application No. CA 2,290,967	January 28, 1999	Ex. 1008
Houde	U.S. Patent No. 5,623,532	April 22, 1997	Ex. 1009

*E. The Asserted Grounds of Unpatentability*

Petitioner challenges the patentability of claims 1 and 8–12 of the ’874 patent based on the following grounds (Pet. 3):

Reference(s)	Basis	Claim(s) challenged
Cox and Arimilli	§ 103	1
Cox, Silverman, and Arimilli	§ 103	1
Cox, Silverman, and Arimilli	§ 103	8, 11, and 12
Cox, Silverman, Arimilli, and Henkel	§ 103	9
Cox, Silverman, Arimilli, and Houde	§ 103	10

## II. ANALYSIS

### A. *Claim Interpretation*

In an *inter partes* review, claim terms in an unexpired patent are given their broadest reasonable construction in light of the Specification of the patent in which they appear. 37 C.F.R. § 42.100(b), *see also* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,766 (Aug. 14, 2012); *In re Cuozzo Speed Techs., LLC*, 793 F.3d 1268, 1277–78 (Fed. Cir. 2015) (“We conclude that Congress implicitly approved the broadest reasonable interpretation standard in enacting the AIA.”), *cert. granted sub nom. Cuozzo Speed Techs. LLC v. Lee*, 136 S. Ct. 890 (2016). Under the broadest reasonable interpretation standard, claim terms are given their ordinary and customary meaning in view of the Specification, as would be understood by one of ordinary skill in the art at the time of the invention. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). Any special definition for a claim term must be set forth in the Specification with reasonable clarity, deliberateness, and precision. *In re Paulson*, 30 F.3d 1475, 1480 (Fed. Cir. 1994).

#### *“synchronous data communication protocol”*

Referring to a dictionary definition, Petitioner argues that the ’874 patent Specification’s use of the term “synchronous data communications protocol” is consistent with the usage in the art at the time of the alleged invention. Pet. 12–13 (citing Ex. 1019, 727). Specifically, Newton’s Telecom Dictionary (14th Ed.) defines “synchronous,” in part, as:

The condition that occurs when two events happen in a specific time relationship with each other and both are under the control of a master clock. Synchronous transmission means there is a constant time between successive bits, characters or events. . . .

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