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DR. SAYFE KIAEI  
UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC. AND DISH ) Case IPR  
NETWORK, LLC, et al., ) 2016-01006  
 ) Patent No.  
Petitioners, ) 7,835,430  
 )  
vs. ) Case IPR  
 ) 2016-01007  
TQ DELTA, LLC, ) Patent No.  
 ) 8,432,956  
Patent Owner. )  
 ) Case IPR  
 ) 2016-01008  
 ) Patent No.  
 ) 8,238,412  
 )  
 ) Case IPR  
 ) 2016-01009  
 ) Patent No.  
 ) 8,238,412

DEPOSITION OF DR. SAYFE KIAEI

Phoenix, Arizona  
June 26, 2017  
8:44 a.m.

JOB NO. 125980  
REPORTED BY:  
Janice Gonzales, RPR, CRR  
AZ Certified Court  
Reporter No. 50844

1 DR. SAYFE KIAEI  
2 DEPOSITION OF DR. SAYFE KIAEI  
3 commenced at 8:44 a.m. on June 26, 2017, at Snell &  
4 Wilmer, LLP, 400 East Van Buren Street, One Arizona  
5 Center, Suite 1900, Phoenix, Arizona 85004, before  
6 Janice Gonzales, RPR, CRR, Arizona Certified Court  
7 Reporter No. 50844.

8  
9 \* \* \*

10  
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1 DR. SAYFE KIAEI  
2 DR. SAYFE KIAEI,  
3 called as a witness herein, having been first duly  
4 sworn, was examined and testified as follows:  
5 EXAMINATION  
6 BY MR. CHIPLUNKAR:  
7 Q. Could you please state your name for the  
8 record again.  
9 A. Good morning. My name is Sayfe Kiaei.  
10 Q. So, Dr. Kiaei, I'll refer to you as  
11 Dr. Kiaei or simply Doctor or sir. Is that okay?  
12 A. Yes, Counsel.  
13 Q. Okay. Some housekeeping. You've done  
14 this before. I'll take a break maybe every hour or  
15 so. Feel free to ask for a break whenever you think  
16 you need a break. Just complete answering the  
17 question. Speak audibly so she can get your answers  
18 down. So let's get started.  
19 A. Thank you, Counsel.  
20 Q. You previously submitted separate  
21 declarations in each of IPR 2016-01006, IPR  
22 2016-1007, IPR 2016-1008, and IPR 2016-1009. Is that  
23 correct?  
24 A. Yes, Counsel.  
25 Q. I will collectively refer to these IPRs

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2 as the diag mod IPRs or simply the IPRs and the  
3 patents that they challenge as the diag mod patents.  
4 So would that be okay with you?

5 A. Yes, Counsel.

6 Q. Okay. I will refer to U.S. Patent No.  
7 7,835,430 as the '430 patent, U.S. Patent No.  
8 8,238,412 as the '412 patent, and U.S. Patent No.  
9 8,432,956 as the '956 patent. Would that be okay  
10 with you?

11 A. Yes, Counsel.

12 Q. And for the record, can you please  
13 confirm that you are petitioner Cisco's expert  
14 declarant for each of these IPRs?

15 A. Yes, Counsel.

16 Q. There are additional parties that have  
17 joined some of these IPRs. Are you aware of that?

18 A. Additional parties?

19 Q. Parties, yeah. Other than Cisco, a few  
20 other parties have joined some of these IPRs. Are  
21 you aware of that?

22 A. No.

23 Q. Okay. So I take it, then, you had no  
24 communications with any other parties except Cisco  
25 and Cisco's counsel?

1 DR. SAYFE KIAEI

2 A. I have only had communications with the  
3 counsels.

4 Q. Okay. And can you confirm that you  
5 previously submitted a declaration in each of these  
6 IPRs in support of Cisco's petition for IPRs?

7 A. Yes, Counsel, I have.

8 Q. You also submitted a CV or a resume with  
9 your prior declaration. Are there any changes in  
10 that resume? Any major changes?

11 A. No major changes. Two or three  
12 publications may have come up, but no, no major  
13 changes.

14 Q. Okay. And you submitted a single  
15 declaration that was filed with petitioners' reply in  
16 each of these IPRs?

17 A. Yes, Counsel.

18 Q. And for the record, this second  
19 declaration has already been marked Petitioners'  
20 Exhibit 1100. Can you confirm that?

21 A. I believe that's the correct number, but  
22 if you have a copy of it, I can confirm that.

23 Q. I will refer to your declaration as your  
24 reply declaration, and you will understand that this  
25 is the declaration that you submitted with Cisco's

1 DR. SAYFE KIAEI

2 reply. Is that okay with you?

3 A. Yes, Counsel.

4 Q. Okay. And the opinion in this  
5 declaration, these are your own opinions?

6 A. Yes, Counsel, they're my opinions.

7 Q. Can you confirm for the record that for  
8 these opinions you rely for support on several new  
9 exhibits?

10 A. The list of exhibits I have is in the  
11 declaration I submitted. So I have to look at it and  
12 see which ones are new, but...

13 Q. Do you agree that there are declarations  
14 that you cite that are documents that you cite to in  
15 this present declaration that you didn't cite to in  
16 your prior declaration?

17 A. I don't quite exactly remember. There  
18 may have been one or two of them, yes.

19 Q. So there were one or two new references  
20 that you cite to in your present declaration?

21 A. There were one or two references in reply  
22 to Mr. Chrissan's declaration. To answer those, I  
23 may have added one or two additional ones, from what  
24 I remember, but I have to look at my declaration to  
25 be firm about it.

1 DR. SAYFE KIAEI

2 Q. Okay. Fair enough. For the record,  
3 petitioner submitted with their reply declaration  
4 exhibits that have already been marked 1100 through  
5 1111.

6 You prepared for this declaration,  
7 Dr. Kiaei, in advance of this deposition?

8 A. Yes, Counsel, I did.

9 Q. Did you meet with counsel?

10 A. Yes, Counsel, I did.

11 Q. Did you review Dr. Chrissan's deposition  
12 testimony?

13 A. Dr.?

14 Q. Chrissan.

15 A. Dr. Chrissan, yes. Yes, I did.

16 Q. His declaration?

17 A. I reviewed his declaration, yes.

18 Q. Your prior declaration?

19 A. I focused mostly on the recent  
20 declaration I've given. I did not look at my prior  
21 declaration.

22 Q. So you did not look at your prior  
23 declaration?

24 A. No.

25 Q. Okay. Did you review the new references

1 DR. SAYFE KIAEI

2 that you cite to in your second declaration?

3 A. Yes, I did.

4 Q. How many hours did you take preparing for  
5 this deposition?

6 A. I didn't add the hours. The last couple  
7 of weeks I've been working on this.

8 Q. Couple of weeks?

9 A. Yeah, the last two weeks here and there.  
10 Not every day, but hours here and there, so...

11 Q. Okay. Fair enough. So you already  
12 stated that you reviewed the declaration of  
13 Dr. Chrissan in preparing this declaration and in  
14 preparing for this deposition. Were you aware that  
15 Dr. Chrissan was deposed on his declaration?

16 A. Yes.

17 Q. Did you attend Dr. Chrissan's deposition?

18 A. Yes, I did. That's the one in Chicago,  
19 right?

20 Q. Yes.

21 A. Yeah, I was there.

22 Q. Did you help petitioners' counsel prepare  
23 for the deposition of Dr. Chrissan?

24 A. What do you mean by "help"?

25 Q. Did they consult with you prior to

1 DR. SAYFE KIAEI

2 Dr. Chrissan's deposition?

3 A. I don't recall that. Primarily I  
4 attended to -- to hear what he has to say.

5 Q. Okay. Do you recall the attorney for  
6 petitioner who deposed Dr. Chrissan?

7 A. Yes, I believe that was Russ, yes. That  
8 would be the gentleman here.

9 Q. Mr. Emerson. And like I previously  
10 stated, you cited to several books in your second  
11 declaration. One of these is Exhibit 1101 that I'll  
12 refer to as the Abe publication. Do you recall  
13 looking at this book?

14 A. Yes, Counsel, I have looked at this book.

15 Q. Okay. Who identified -- who identified  
16 this book? Your Counsel?

17 MR. EMERSON: Object to the form.

18 THE WITNESS: I don't actually remember.

19 BY MR. CHIPLUNKAR:

20 Q. Do you have this book in your possession?

21 A. Yes, I have a copy of this book in my  
22 possession.

23 Q. Okay.

24 A. Yeah.

25 Q. You did not rely on this book in your

1 DR. SAYFE KIAEI

2 first declaration; is that correct?

3 A. No, I did not. As I said, this was in  
4 reference to the reply to Dr. Chrissan's statements  
5 in his declaration.

6 Q. Is it your understanding that this book  
7 represents a person of ordinary skill in the art's  
8 understanding or the understanding of a person of  
9 ordinary skill in the art?

10 A. Pertaining to materials I discussed here,  
11 yes.

12 Q. Okay. Is it your understanding then that  
13 the author of this book is a person of ordinary skill  
14 in the art?

15 A. I don't know Dr. Abe. I presume it's  
16 Dr. Abe -- George Abe, but I believe so, yes. I  
17 believe so.

18 Q. So you think he's a doctor?

19 A. I don't know that.

20 Q. Okay.

21 A. I don't know.

22 Q. But you presume he's a doctor?

23 A. I don't know that either. I take that  
24 statement back.

25 Q. Okay. So you already answered this

1 DR. SAYFE KIAEI

2 question, but I'm going to ask it. So during  
3 Dr. Chrissan's deposition, Mr. Emerson asked  
4 Dr. Chrissan the following question: "Are you  
5 familiar with this book? Are you familiar with this  
6 book in any way?"

7 Same question to you. Prior to this --  
8 prior to this deposition and prior to you preparing  
9 your declaration, were you familiar with this book?

10 A. I knew it existed, yeah. I was aware of  
11 the book, yeah. It was one of the books at the time  
12 that was available on the subject, yeah. I don't  
13 recall exactly how detailed I read it at the time,  
14 but I was aware of it.

15 Q. And in your declaration that you  
16 submitted with the petition -- and I'm just going to  
17 quote for the record. You stated at paragraph 36 of  
18 Exhibit 1009, "In my opinion, the level of a POSITA  
19 needed to have the capability of understanding  
20 multicarrier communications and engineering  
21 principles applicable to the '956 patent is (1) a  
22 master's degree in electrical or computer engineering  
23 or equal while in training, and approximately five  
24 years of experience working in digital  
25 communication."

1 DR. SAYFE KIAEI

2 If I told you Mr. Abe's qualifications  
3 are a BA in mathematics and an MS in business  
4 qualitative matters, would you consider him a POSITA?

5 A. I don't know Mr. Abe's background and  
6 resume. I think that -- first of all, I'd like to  
7 look at my declaration to see what I said for a  
8 POSITA. If you don't mind, hand me a copy of my  
9 declaration.

10 Q. I don't have your 1009 declaration.  
11 That's why I just quoted it for the record.

12 A. Oh, I see. Can you read that again?

13 Q. "In my opinion, the level of a POSITA  
14 needed to have the capability of understanding  
15 multicarrier communications and engineering  
16 principles applicable to the '956 patent is (1) a  
17 master's degree in electrical and/or computer  
18 engineering or equal valid training, and (2)  
19 approximately five years of experience working in  
20 digital telecommunications."

21 Under this definition, would a person  
22 with a BA in mathematics and an MS in business  
23 qualitative matters qualify as a POSITA?

24 MR. EMERSON: I'm going to object to the  
25 form and I'm going to object as beyond the scope.

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2 THE WITNESS: First of all, in the POSITA  
3 I said that it was a master's in electrical  
4 engineering and computer engineering or equivalent.  
5 Number 2, I don't have Mr. Abe's -- Mr. Abe's resume  
6 in front of me, but in general, a person with a  
7 background in mathematics and statistics would, and  
8 having a background in other areas related to that  
9 would understand some of the concepts that are  
10 discussed here.

11 BY MR. CHIPLUNKAR:

12 Q. So are you changing your definition of a  
13 POSITA then?

14 A. No, I'm not. I said equivalent.

15 Q. So you're supplementing your definition  
16 of a POSITA then?

17 A. No, I'm not, Counsel.

18 Q. So bachelor's in mathematics is  
19 equivalent to a degree in electrical engineering?

20 A. As I said, I need to look at his resume  
21 and his publications. Having published -- having  
22 published this book which is a second edition of a  
23 book in residential broadband and having read what I  
24 have read here, I have to look at his resume.

25 Q. Okay. Let's turn to page 4 of the Abe

1 DR. SAYFE KIAEI

2 reference, the third full sentence. Can you read  
3 that into the record.

4 A. On the first paragraph?

5 Q. Yes.

6 A. You're talking about "Frequency,  
7 amplitude" sentence? The third sentence under  
8 "Discrete Multitone"?

9 Q. No, page 4, the last page.

10 A. Oh, page 4 of the book, not page 4 of the  
11 document.

12 Q. The last page of what you printed out.

13 A. Oh, I see. Last page with the figure?

14 Q. Yes, which has a graph on it.

15 A. Yeah.

16 Q. That would be page 69 of the Abe  
17 reference, the third full sentence. Could you please  
18 read that into the record.

19 A. The third full sentence is "One of the  
20 noisiest debates" you're talking about?

21 The first sentence is "Multicarrier  
22 techniques have a latency." The second sentence is  
23 "In the DMT case for ADSL."

24 Q. Now, the third sentence.

25 A. The third sentence is "So no bit can

1 DR. SAYFE KIAEI

2 travel faster than allowed by 4 kilohertz even if the  
3 line was perfectly clean."

4 Q. Can you explain to me what it means when  
5 you say "no bit can travel faster than allowed by  
6 4 kilohertz"?

7 MR. EMERSON: Object to the form.

8 THE WITNESS: This is outside -- first of  
9 all, what he's talking about here is that the delays  
10 -- because of the fact that each one of the subbands  
11 have a limited bandwidth, the delays of transmitting  
12 data is limited to this 4 kilohertz's bandwidth.  
13 That's what my understanding and a POSITA's  
14 understanding of this is. The data rate for each one  
15 of these subbands is limited. The bandwidth of this  
16 is limited to 4 kilohertz.

17 BY MR. CHIPLUNKAR:

18 Q. So the maximum bandwidth of 80 SL is  
19 4 kilohertz?

20 MR. EMERSON: Object to the form.

21 BY MR. CHIPLUNKAR:

22 Q. I'll rephrase that. Is it your  
23 understanding that the maximum bandwidth of 80 SL is  
24 4 kilohertz?

25 A. No, that's not what it's talking about.

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