

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

Cisco Systems, Inc.,  
Petitioner

---

Case IPR2016-\_\_\_\_\_

U.S. Patent No. 8,718,158

---

**DECLARATION OF DR. JOSE TELLADO, UNDER  
37 C.F.R. § 1.68 IN SUPPORT OF PETITION FOR  
*INTER PARTES* REVIEW OF U.S. PATENT NO. 8,718,158**

## TABLE OF CONTENTS

I.	Introduction.....	4
II.	Background and Qualifications .....	6
III.	Level of Ordinary Skill in the Pertinent Art.....	7
IV.	Relevant Legal Standards .....	10
V.	The '158 Patent.....	12
	A. Overview .....	12
	B. Prosecution History of the '158 Patent .....	18
	C. Priority Date of the '158 Patent.....	18
VI.	Claim Construction.....	18
	A. “multicarrier”.....	18
	B. “transceiver” .....	20
VII.	Challenge #1: Claims 1, 2, 4, 15, 16, & 18 are Unpatentable Over Shively and Stopler.....	23
	A. Overview of Shively.....	23
	B. Overview of Stopler .....	25
	C. Reasons to Combine Shively and Stopler .....	27
	D. Detailed Analysis .....	30
VIII.	Challenge #2: Claims 3, 5, 14, 17, 19, and 28-30 are unpatentable over Shively, Stopler, and Gerszberg .....	61
	A. Overview of Gerszberg .....	61
	B. Reasons to Combine Shively and Stopler with Gerszberg .....	62
	C. Detailed Analysis .....	66
IX.	Challenge #3: Claims 6, 9, 10, 12, 20, 23, 24, and 26 are unpatentable over Shively, Stopler, and Bremer .....	72
	A. Overview of Bremer.....	73
	B. Reasons to Combine Shively and Stopler with Bremer .....	73
	C. Detailed Analysis .....	76
X.	Challenge #4: Claims 8, 11, 13, 22, 25 and 27 are unpatentable over Shively, Stopler, Bremer, and Gerszberg .....	85

A.	Reasons to Combine Shively, Stopler, and Bremer with Gerszberg.....	86
B.	Detailed Analysis .....	86
XI.	Challenge #5: Claims 7 and 21 are Unpatentable over Shively, Stopler, Bremer, and Flammer .....	89
A.	Overview of Flammer .....	89
B.	Reasons to Combine Shively, Stopler, and Bremer with Flammer.....	90
C.	Detailed Analysis .....	92
XII.	Conclusion .....	98

I, Dr. Jose Tellado, do hereby declare as follows:

## **I. INTRODUCTION**

1. I have been retained as an independent expert declarant on behalf of Cisco Systems, Inc. (“Cisco”) for the above-captioned Petition for *Inter Partes* Review (“IPR”) of U.S. Patent No. 8,718,158 (“the ’158 patent”). I am being compensated at my usual and customary rate for the time I spend in connection with this IPR. My compensation is not affected by the outcome of this matter.

2. I have been asked to provide my opinions regarding whether claims 1-30 (“the Challenged Claims”) of the ’158 patent are invalid as they would have been obvious to a person having ordinary skill in the art (“POSITA”) at the time of the alleged invention. It is my opinion that all of the limitations of claims 1-30 would have been obvious to a POSITA after reviewing the Shively, Stopler, Gerszberg, and Bremer references, as discussed further below.

3. The ’158 patent issued on May 6, 2014, from U.S. Patent Appl. No. 13/303,417 (“the ’417 Application”), filed on November 23, 2011. The ’417 Application is a continuation of application No. 12/783,725, filed on May 20, 2010, now U.S. Pat. No. 8,090,008, which is a continuation of U.S. Patent Appl. No. 12/255,713, filed Oct. 22, 2008, now U.S. Pat. No. 7,769,104, which is a continuation of U.S. Patent Appl. No. 11/863,581, filed Sep. 28, 2007, now U.S. Pat. No. 7,471,721, which is a continuation of U.S. Appl. No. 11/211,535, filed

Aug. 26, 2005, now U.S. Pat. No. 7,292,627, which is a continuation of U.S. Patent  
Appl. No. 09/710,310, filed Nov. 9, 2000, now U.S. Pat. No. 6,961,369.

4. The '158 patent also claims the benefit of U.S. Provisional  
Application No. 60/164,134, filed on November 9, 1999.

5. The face of the '158 patent names Marcos C. Tzannes as the  
purported inventor. Further, the face of the '158 patent identifies TQ Delta, LLC as  
the initial assignee of the '158 patent.

6. In preparing this Declaration, I have reviewed:

- a) the '158 patent, Ex. 1001;
- b) the file history of the '158 patent, Ex. 1002;
- c) the file histories of the patent applications to which the '158  
patent claims priority, Ex. 1003-1008; and
- d) the prior art references discussed below, Ex. 1011-1013, 1017,  
and 1019.

7. In forming the opinions expressed in this Declaration, I relied upon  
my education and experience in the relevant field of art, and have considered the  
viewpoint of a POSITA, as of November 9, 1999 (the earliest claimed priority  
date). I have also considered:

- a) the documents listed above,

# 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.