

Filed on behalf of TQ Delta, LLC

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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CISCO SYSTEMS, INC.  
Petitioner

v.

TQ DELTA, LLC  
Patent Owner

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Case No. IPR2016-01021  
Patent No. 8,718,158

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**PATENT OWNER PRELIMINARY RESPONSE**

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## I. INTRODUCTION

Patent Owner TQ Delta, LLC (“TQ Delta” or “Patent Owner”) submits this preliminary response to the Petition filed by Cisco Systems, Inc. (“Cisco” or “Petitioner”) requesting *inter partes* review of claims 1–30 of U.S. Pat. No. 8,718,158 (“the ’158 patent”).

The Petition fails to demonstrate a reasonable likelihood that any of claims 1–30 of the ’158 patent are unpatentable. In every instance, Petitioner alleges that the challenged claims are unpatentable as being obvious over at least U.S. Pat. No. 6,144,696 (“Shively”) in view of U.S. Pat. No. 6,625,219 (“Stopler”).

But Petitioner’s rationale for combining Shively and Stopler is insufficient because it is premised on flawed assumptions and hindsight.

In particular, Petitioner and its expert incorrectly assume that Shively transmits signals having a high peak-to-average power ratio (“PAR”). According to Petitioner, a person having ordinary skill in the art (“PHOSITA”) would have looked to Stopler to cure Shively’s PAR problem. Shively’s transmission signals, however, do not have a problem with PAR. Without Petitioner’s incorrect assumption, Petitioner’s rationale for combining Shively and Stopler falls apart.

And even if Shively did disclose signals with high PAR (it plainly does not), a PHOSITA would not have looked to Stopler, which does not even mention the word “power” or PAR, or purport to address issues relating to PAR. Because of

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