

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC., et al.
Petitioner,

v.

TQ DELTA LLC,
Patent Owner.

Case IPR2016-01020 (Patent 9,014,243)
Case IPR2016-01021 (Patent 8,718,158)

Record of Oral Hearing
Held: August 3, 2017

Before SALLY C. MEDLEY, TREVOR M. JEFFERSON, and
MATTHEW R. CLEMENTS, *Administrative Patent Judges*

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Case IPR2016-01021 (Patent 8,718,158)

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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ON BEHALF OF THE PATENT OWNER:

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The above-entitled matter came on for hearing on Thursday, August 3, 2017, commencing at 2:56 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

1 P R O C E E D I N G S

2 JUDGE MEDLEY: Good afternoon. We are on
3 the record. This is the hearing for IPR 2016 01020
4 and 1021. Cisco Systems, et al. versus TQ Delta.
5 Each side has 40 minutes to argue.

6 Petitioner, you will proceed first,
7 to present your case with respect to the challenged
8 claims and grounds for which we instituted a trial.
9 And then thereafter, patent owner, you may have
10 time to respond and petitioner, you may reserve
11 rebuttal time.

12 At this time we would like the parties
13 to please introduce themselves beginning with
14 petitioner.

15 MR. MCCOMBS: Your Honors, I'm David
16 McCombs with Haynes & Boone, and with me is Theo
17 Foster and Gregory Huh and Dina Blikshteyn. Also we
18 have with us today, on behalf of Dish Networks we
19 Jennifer Volk and Stephen McBride from Cooley. And
20 then also we have for the Comcast entities we
21 have Corey Manley with Duane Morris.

22 JUDGE MEDLEY: And Mr. Foster, you will be
23 presenting?

24 MR. FOSTER: That's correct.

25 JUDGE MEDLEY: And patent owner?

26 MR. MCANDREWS: Good afternoon, Your

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1 Honor. I'm Peter McAndrews with McAndrews Held &
2 Malloy. With me I have Rajendra Chiplunkar, Chris
3 Scharff, and Ben Mann from our law firm. I also
4 have from TQ Delta, their representative is Mark
5 Roach and Nada Roget, and one of the inventors from
6 the patent portfolio, Marcos Tzannes.

7 JUDGE MEDLEY: All right. On August 1st,
8 2017, patent owner filed papers styled Patent Owner's
9 Objections to Petitioner's Demonstratives. Patent
10 owner's objections are dismissed because they are
11 improper since patent owner did not demonstrate
12 sufficiently that the contents of the objected-to
13 slides raised new issues or evidence, rather the
14 objected-to slides contained references to arguments
15 and evidence of record.

16 Again, we remind the parties that the
17 demonstratives are not evidence but demonstratives
18 and that we may not even enter them into the
19 record. For all these reasons, we dismiss the
20 objections to petitioners' demonstratives.

21 Petitioner, at this time you may
22 proceed.

23 MR. FOSTER: Thank you, Your Honor.

24 Good afternoon and may it please the
25 court. I'd like to jump straight into the issues
26 in this case and first point out that patent owner

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1 does not dispute that the substantive limitations
2 of the claims at issue here are taught in the
3 prior art. The main issue raised in papers
4 concerns the obviousness of combining the two main
5 references. Those are Shively and Stopler. And
6 we believe that that combination, looking at Slide
7 2, that combination flows from ordinary
8 engineering problem solving skills applied in
9 light of three simple observations that would have
10 been apparent to a person of ordinary skill in
11 this art.

12 Those are, first, that Shively's
13 bit-spreading technique, while it improves the
14 data communication by allowing more data to be
15 communicated using otherwise unusable portions of
16 the frequency spectrum, it does have a side effect
17 in that it causes an increase in the
18 peaked-to-average power ratio for PAR of the
19 transmitted signal; second, that increase in PAR
20 is undesirable for a very large number of reasons;
21 and third, that the secondary reference, Stopler,
22 teaches a phase scrambler, which is a well known
23 technique in the prior art for reducing PAR.

24 So the combination would have been
25 obvious to a person of ordinary skill of the art
26 from these three simple statements.

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