

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE PATENT TRIAL AND APPEAL BOARD

YMAX CORPORATION, )  
Petitioner, )

VS. ) CASE NO. IPR2016-01256

FOCAL IP, LLC, )  
Patent Owner. )

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ORAL DEPOSITION OF  
REGIS JEROME "BUD" BATES  
MAY 4, 2017

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ORAL DEPOSITION OF REGIS JEROME "BUD" BATES,  
produced as a witness at the instance of the PETITIONER,  
and duly sworn, was taken in the above-styled and numbered  
cause on the 4th day of May, 2017, from 9:17 a.m. to 3:26  
p.m., before Kathryn R. Baker, CSR, RPR, in and for the  
State of Texas, reported by machine shorthand, at the  
offices of Nelson Bumgardner 3131 West 7th Street, Suite  
300, in the City of Fort Worth, State of Texas, pursuant  
to the Federal Rules of Civil Procedure.

Job #123089

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REQUESTED DOCUMENTS/INFORMATION  
(NONE)

CERTIFIED QUESTIONS  
(NONE)

REGIS JEROME "BUD" BATES  
PROCEEDINGS

THE REPORTER: Any agreements?

MR. BRAFMAN: Federal rules.

MR. MURPHY: We don't have anything else to  
put on the record.

REGIS JEROME "BUD" BATES,  
having been first duly sworn, testified as follows:

EXAMINATION

BY MR. BRAFMAN:

Q. Can you state your name, please.

A. My legal name is Regis Jerome Bates, Junior. I  
go by "Bud."

Q. Today I'll be asking questions, and you'll be  
responding to them.

Is that your understanding?

A. I do.

Q. It's important that you hear each of my  
questions. If you don't hear one of my questions, please  
let me know, and I'll be happy to repeat it.

Will you do that?

A. Yes.

Q. It's also important that you understand my  
questions. If you don't understand one of my questions,  
please let me know, and I'll be happy to explain it.

1 REGIS JEROME "BUD" BATES  
 2 Will you let me know if you don't  
 3 understand one of my questions?  
 4 A. I will.  
 5 Q. It's also important that you finish the answer  
 6 to my questions before I move on to my next question. If  
 7 I ever inadvertently cut you off, I apologize in advance.  
 8 But will you let me know if you haven't had  
 9 the opportunity to finish your question -- your answer?  
 10 A. I will.  
 11 Q. Great.  
 12 In the context of the three patents we're  
 13 dealing with in the IPRs, the '113, '298 and '777 patents,  
 14 what is a local geographic area?  
 15 A. The local --  
 16 MR. MURPHY: Objection, form.  
 17 A. The local geographic area that's defined, and if  
 18 you will, I had specified them in my declarations of --  
 19 whenever you can give me that, I'll basically refer back  
 20 to that.  
 21 But the local geographic area, typically in  
 22 a -- let's say a Fort Worth area, there will be a series  
 23 of central offices that serve dial tone to a group of  
 24 end-users. The history of the central office would be  
 25 about 10,000-plus customers is where a central office

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 2 is, it would be nice to see what this round of context was  
 3 to the declaration if you gave us the whole context.  
 4 Q. (BY MR. BRAFMAN) Mr. Bates, do you recognize  
 5 the illustrations on Exhibit 1100?  
 6 A. I do.  
 7 Q. These illustrations are meant to depict, in a  
 8 basic way, the PSTN, correct?  
 9 A. Yes.  
 10 Q. It's correct, isn't it, that these diagrams are  
 11 simplified versions of the PSTN?  
 12 A. Correct.  
 13 Q. For example, there are certain kinds of  
 14 connections among switches in the PSTN that are not  
 15 illustrated in these diagrams; is that right?  
 16 A. Absolutely.  
 17 Q. As one example, there are places in the PSTN  
 18 where Class 5 switches connect to each other directly,  
 19 correct?  
 20 A. That is correct. If I may add, that is correct  
 21 when they are within close proximity of each other, and  
 22 there's enough traffic that would go between them.  
 23 Q. In places where there are direct connections  
 24 between Class 5 switches in the PSTN, that could be  
 25 represented by a line going between a pair of the blue

1 REGIS JEROME "BUD" BATES  
 2 would be.  
 3 And then those local central offices would  
 4 be connected to an access tandem or tandem switch. That  
 5 serves the local area for all of those central offices.  
 6 Q. (BY MR. BRAFMAN) Isn't the local geographic  
 7 area, the area that is served by one Class 5 switch?  
 8 A. And that was what I just described; it will be a  
 9 central office serving up to about 10,000 customers.  
 10 Q. Is it correct that there is a limitation on how  
 11 far away a customer can be from the local Class 5 switch  
 12 that's servicing his house?  
 13 A. In order to run the unshielded twisted wires out  
 14 to a customer, there typically would be some limitation.  
 15 Historically, the Bell system would try to serve a central  
 16 office in area of about five miles around.  
 17 MR. BRAFMAN: Let's mark as Exhibit 1100,  
 18 Page 10 from the Bates Declaration, Exhibit 2022, from  
 19 IPR 2016-01256.  
 20 (Exhibit 1100 marked.)  
 21 MR. MURPHY: Do you have his full  
 22 declaration for this?  
 23 MR. BRAFMAN: Yes.  
 24 MR. MURPHY: Since it's only one page from  
 25 his whole declaration, insofar as that context, what this

1 REGIS JEROME "BUD" BATES  
 2 boxes in the bottom illustration on Exhibit 1100; is that  
 3 right?  
 4 A. So long as those two boxes -- for example, the  
 5 left two boxes, sure. I don't know that I would see one  
 6 running from the left all the way to the right, no. So  
 7 they have to, again, be in close proximity to each other.  
 8 (Exhibit 1101 marked.)  
 9 Q. (BY MR. BRAFMAN) I'm going to mark the next  
 10 exhibit as 1101. Mr. Bates, I've just handed you another  
 11 diagram. In this one, the two stars, the one on the left  
 12 in blue, and the one on the right in a light red, are  
 13 meant to represent two Class 5 switches. Let's call the  
 14 switch on the left in blue Switch 1, and the switch on the  
 15 right in light red Switch 2.  
 16 Is that okay?  
 17 A. In this context that you're explaining, sure.  
 18 Q. Okay. And I'd like these two Class 5 switches  
 19 to represent one of those circumstances that exists in the  
 20 PSTN, where there are two Class 5 switches directly  
 21 connected to each other.  
 22 Is that fair?  
 23 A. This is your drawing. I'll go with what you're  
 24 suggesting.  
 25 Q. Okay. Because customers served by a Class 5

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 2 switch generally need to be within a certain radius of the  
 3 local switch, I've depicted as two circles the local  
 4 geographic area for each of the two switches; the blue  
 5 circle is meant to be the geographic -- local geographic  
 6 area for Switch 1, and the circle on the right in light  
 7 red is the local geographic area for Switch 2.

8 Are you following so far?

9 A. I understand what you're saying.

10 Q. Is that a fair simplified representation?

11 MR. MURPHY: Objection, form.

12 A. You're using a Venn diagram here that wouldn't  
 13 necessarily represent how a Bell Telephone Company would  
 14 set up their networks. They would never have that kind of  
 15 an overlap.

16 Q. (BY MR. BRAFMAN) There would be less of an  
 17 overlap?

18 A. If there would be any at all. Normally, they  
 19 abut each other that way. But this is your hypothetical;  
 20 I'll let you continue.

21 Q. Okay. Well, let me ask you: Does -- strike  
 22 that.

23 Do the two switches -- the Class 5 switches  
 24 that are directly connected, must they be within the same  
 25 radius as a customer needs to be, to be served by the

1 REGIS JEROME "BUD" BATES  
 2 switch?

3 A. The way a Bell Telephone Company would set up  
 4 their wiring as they would normally, and this is why they  
 5 called it a "central office," they would centralize it in  
 6 the middle of an area. They would not put that kind of an  
 7 overlap because they spoke out from that central office  
 8 out to their customer with what they call their "feeds;"  
 9 multiple bundles of wire are run out to the area, the  
 10 geographic area they're covering, and then they split it  
 11 off along the way.

12 So they start out with a 600-pair cable,  
 13 and they get all the way down to one pair that runs to the  
 14 customer premises, in a residential or small business  
 15 environment. There would be no need for them to try to  
 16 run the cables in this kind of a Venn diagram, because  
 17 normally they put it in the center. It doesn't require  
 18 that. They could have them out on the outside of the  
 19 circle or right at the edge and moving in, but normally  
 20 they tried to centralize it and feed out, and that was an  
 21 economic decision.

22 Q. Okay. So do I understand correctly what you're  
 23 explaining that, in your opinion, in the case of Class 5  
 24 switches that are directly connected to each other in the  
 25 PSTN, the local geographic areas abut each other, but

1 REGIS JEROME "BUD" BATES  
 2 generally don't overlap very much?

3 MR. MURPHY: Objection, misstates  
 4 testimony.

5 A. As I stated, they typically would not overlap,  
 6 or if there was any overlap, it would be very minor.

7 Q. (BY MR. BRAFMAN) Okay. Can you pass me  
 8 Exhibit 1101; I want to add to the drawing.

9 A. (Witness complies.)

10 Q. Thanks.

11 Or, in fact, maybe it would make the most  
 12 sense; would you draw a depiction of the geographic areas  
 13 as you believe would be a fair representation as they  
 14 exist in the PSTN when you have Class 5 switches directly  
 15 connected to each other? And I'll give you my pen.

16 MR. MURPHY: Objection.

17 A. I just described it. Why do you need me to draw  
 18 it?

19 Q. (BY MR. BRAFMAN) Would you do so, so I can ask  
 20 you further questions about it?

21 A. I prefer not to draw when I'm in testimony.

22 Q. Okay. I'll draw for you.

23 A. Okay.

24 Q. (Drawing.)

25 On the bottom of Exhibit 1101, I've drawn

1 REGIS JEROME "BUD" BATES  
 2 two hand-drawn rough circles that are close to each other;  
 3 one has a square, one has a triangle in the center. Those  
 4 are meant to represent two Class 5 switches connected to  
 5 each other.

6 Is that a fair representation?

7 MR. MURPHY: Objection.

8 A. Again, it's your drawing, and I'll say that  
 9 represents about what you've just said.

10 Q. (BY MR. BRAFMAN) Okay. And is that a fair  
 11 representation of the setup of two directly connected  
 12 Class 5 switches?

13 MR. MURPHY: Objection, form.

14 A. Two directly connected? Those are two separate  
 15 boxes in two separate geographic areas. To directly  
 16 connect them, depending on the distance, I would run a  
 17 wire between them or a link between them.

18 Q. (BY MR. BRAFMAN) Okay. I'll add a line  
 19 between the square and the triangle to represent that link  
 20 you just testified about.

21 (Drawing.)

22 I've added that line; is that the link  
 23 you're referring to?

24 A. That would be appropriate, yes.

25 Q. Okay. I've also added the letter A and the

1 REGIS JEROME "BUD" BATES

2 letter B in circles. Those are meant to represent  
3 subscribers to the telephone system, where Subscriber A is  
4 connected to a switch that's a square, and Subscriber B is  
5 connected to the local 5 switch that is a triangle.

6 A. So they're not connected. If they're in the  
7 geographic area, there would be a line running out to each  
8 of those boxes or each of those circles.

9 Q. I'll add those lines as well.

10 (Drawing.)

11 Have I added the lines in the right place?

12 A. I believe so, yes.

13 Q. Okay. If Subscriber A places a telephone call  
14 to Subscriber B, one possible path for his call to take is  
15 from his premises to his end-office, which is the square,  
16 down the line connected from the square to the triangle,  
17 which is the neighboring local office, to a subscriber's  
18 House B; is that correct?

19 A. That would be one possible path, yes.

20 Q. Okay. It's correct, isn't it, that  
21 switch -- the triangle switch -- the end -- strike that.

22 It's correct, isn't it, that the end-office  
23 represented by the triangle interconnects Subscriber B to  
24 the geographic area of Subscriber A?

25 MR. MURPHY: Objection, form.

1 REGIS JEROME "BUD" BATES

2 A. Would you care to define what you mean by it,  
3 interconnects B to that other area?

4 Q. (BY MR. BRAFMAN) Interconnects is a phrase  
5 used in the patents at issue here, correct?

6 A. Correct.

7 Q. What's your understanding of the word?

8 A. Interconnection means that we will connect  
9 between multiple devices.

10 Q. What is an LEC?

11 A. It's an acronym.

12 Q. What does it stand for?

13 A. Local exchange carrier.

14 Q. What is an LEC switch?

15 A. Local exchange carrier provides local dial tone;  
16 so it's, typically, it's an end-office, a Class 5 central  
17 office. The LEC can also own or operate a Class 4 office.

18 Q. Is the LE switch that is a local office one of  
19 the Class 5 switches in the PSTN?

20 A. It would be a Class 5 central office. There are  
21 a number of terms that we use, as you've probably seen in  
22 working in this case. This is an industry where we use  
23 multiple terms for the same device.

24 An LEC switch could be a classified switch,  
25 could be called an end-office, could be called a branch

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2 exchange, could be called a number of different things,  
3 but they all basically serve the same function. It's a  
4 local dial tone provider that is giving the dial tone to  
5 the customer.

6 Q. Are those LE switches -- LEC switches part of  
7 the PSTN?

8 A. They're on the edge of the PSTN, but, yes,  
9 they're part of the PSTN.

10 Q. Okay. What is an IXC?

11 A. That's another acronym.

12 Q. What does it stand for?

13 A. Interexchange carrier.

14 Q. Is there also an IXC switch?

15 A. Yes, there can be, and there usually will be.

16 Q. What is an IXC switch?

17 A. Normally, that would be the toll offices on out  
18 into the core of the network.

19 Q. Does that include Class 4 tandem switches?

20 A. More than likely, yes.

21 Q. Are these IXC toll switches also a part of the  
22 PSTN?

23 A. They are an overlay to the PSTN, but they're  
24 included in the PSTN as we define public switch telephone  
25 network.

1 REGIS JEROME "BUD" BATES

2 Q. For example, turning back to the diagrams from  
3 your report in Exhibit 1100, one of those purple boxes at  
4 the Class 4 tandem switch level might, for example, be an  
5 IXC switch; is that correct?

6 MR. MURPHY: Objection, form.

7 A. There could be some purple boxes in that  
8 picture, normally -- and I say, normally -- your toll  
9 office is your access, your tandem access toll to the toll  
10 network. So normally, there would be perhaps like a  
11 separate line drawn out to a purple box that isn't part of  
12 the Bell system, but it might be somebody else's. It  
13 could also be setting up as a primary center depending on  
14 what area they were serving.

15 Q. (BY MR. BRAFMAN) Do I understand you correctly  
16 that there might be additional connections not shown to  
17 the purple box; is that what you were essentially  
18 explaining?

19 A. Well, what I'm saying is there might be other  
20 boxes that are out there that those purple boxes would  
21 connect to that could be toll centers, but not part of the  
22 Bell tandem toll system, yes.

23 Q. Are there IXC switches that are the purple  
24 boxes?

25 MR. MURPHY: Objection, form.

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