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1 DR. THOMAS F. LA PORTA 2 UNITED STATES PATENT AND TRADEMARK OFFICE 3 4 BEFORE THE PATENT TRIAL AND APPEAL BOARD 5 _ _ _ _ 6 BRIGHT HOUSE NETWORKS, LLC WIDEOPENWEST FINANCE, LLC 7 KNOLOGY OF FLORIDA, INC. BIRCH COMMUNICATIONS, INC., 8 Petitioners 9 v. 10 FOCAL IP, LLC, 11 Patent Owner 12 13 Case IPR2016-01259 14 Patent Number: 8,155,298 15 Case IPR2016-01261 Patent Number: 8,457,113 16 Case IPR2016-01262 17 Patent Number: 7,764,777 18 Case IPR2016-01263 Patent Number: 8,155,298 19 _ _ _ _ _ 20 VIDEOTAPED DEPOSITION OF DR. THOMAS F. LA PORTA 21 VOLUME II 22 _ _ _ _ _ 23 February 24, 2017 24 State College, PA 25 JOB NO. 119418

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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	DR. THOMAS F. LA PORTA VIDEOTAPED DEPOSITION OF DR. THOMAS F. LA PORTA a witness herein, called by Patent Owner for examination, by and before Michelle L. Hall, a Registered Merit Reporter and Notary Public in and for the Commonwealth of Pennsylvania, at the Ramada State College Hotel & Conference Center, 1450 South Atherton Street, State College, PA, on Friday, February 24, 2017, at 8:51 a.m. COUNSEL PRESENT: For the Petitioners: Christopher Tyson, Esquire Patrick McPherson, Esquire Duane Morris 505 9th Street, N.W. Washington, DC 20004 Sarah Guske, Esquire Baker Botts 101 California Street San Francisco, CA 94111 Jaspal Hare, Esquire Spencer Fane 10100 North Central Expressway Dallas, TX 75231 (via teleconference) And Gardiner Davis, Esquire Spencer Fane 1000 Walnut Street Kansas city, MO 64106 (via teleconference)	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	Page 510 DR. THOMAS F. LA PORTA COUNSEL PRESENT (CONT.): For the Patent Owner: John Murphy, Esquire Nelson Bumgardner 3131 West 7th Street Fort Worth, TX 76107 Hanna Madbak, Esquire Siber Law 28 W. 44th Street New York, NY 10036 ALSO PRESENT: Regis J. (Bud) Bates Victoria Ferrandino, Legal Video Specialist
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1 2 3	Page 317 DR. THOMAS F. LA PORTA INDEX	1 2 3	Page 318 DR. THOMAS F. LA PORTA PROCEEDINGS
2	DR. THOMAS F. LA PORTA INDEX WITNESS: DR. THOMAS F. LA PORTA		DR. THOMAS F. LA PORTA P R O C E E D I N G S THE VIDEOGRAPHER: This is the
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1	DR. THOMAS F. LA PORTA	1	DR. THOMAS F. LA PORTA
2	continuation.	2	Q. Day two. So, just for the record,
3	THE VIDEOGRAPHER: Will the	3	we introduced some new exhibits. Make sure I
4	people on the phone introduce themselves.	4	get this right. You have now Archer, which is
5	MR. TYSON: Could the people	5	U.S. Patent No. 6,683,870, that's Exhibit 1003
6 7	on the phone introduce themselves.	6 7	in the 1216, Exhibit 1103 in the 1259, and
8	MR. DAVIS: Gardiner Davis,	8	Exhibit 1003 in the 1262, and Exhibit 1003 in
9	Spencer Fane, Kansas City, representing Birch	9	the 1263; is that right?
10	Communications.	10	A. Yes, I have the patent.
11	MR. HARE: Jaspal Hare from Spencer Fane, Dallas, also representing Birch	11	Q. And then you also received your expert declaration for the '298 patent, which
12	Communications.	12	was filed in the 1263 case as Exhibit 1002; is
13	THE VIDEOGRAPHER: Will the	13	that correct?
14	court reporter please swear in the witness.	14	A. That's correct.
15	THE COURT REPORTER: Will you	15	Q. And then you also have and then
16	raise your right hand, please.	16	with that document is the same as
17		17	Exhibit 1102 in the 1259 case; is that correct?
18	DR. THOMAS F. LA PORTA	18	A. That's correct.
19	a witness herein, having been first duly sworn,	19	Q. And also in front of you is
20	was examined and testified further as follows:	20	Exhibit No. 1002 in the 1262 case, which is
21		21	your expert report to the '777 patent; is that
22	EXAMINATION	22	correct?
23	BY MR. MURPHY:	23	A. That's correct.
24	Q. Good morning.	24	Q. You don't in any of your expert
25	A. Good morning.	25	reports, you don't allege that any of the
	Dage 321		Dage 322
1	Page 321	1	Page 322
1	DR. THOMAS F. LA PORTA	1	DR. THOMAS F. LA PORTA
2	DR. THOMAS F. LA PORTA challenged claims of any of the challenged	2	DR. THOMAS F. LA PORTA And I'll check the '298.
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1	DR. THOMAS F. LA PORTA	1	DR. THOMAS F. LA PORTA
2	Q. So, this this same statement is	2	answering, would have been in the '113.
3	consistent throughout all your reports; right?	3	A. Okay. So the same statement, same
4	A. I believe it is, and I can check,	4	analogous statement is in all three, which
5	but	5	says, in my opinion, the prior art grounds
б	Q. Yeah, if you could clarify that just	6	discussed below match what a POSA would
7	for the record so we know.	7	understand the plain and ordinary meaning of
8	A. Sure.	8	the petition claim terms to be when read in
9	Q. As you're looking for it, I mean,	9	light of the '298 patent's claims, the
10	the way I understand that is if you ever	10	specification, and the file history. Where
11	introduce a particular claim construction for a	11	relevant, I provide a discussion of what a POSA
12	particular claim element, you'll note it as	12	would understand the plain and ordinary meaning
13	such in your report; correct?	13	of certain claims to be.
14	A. Yes. So, I think that's also what I	14	So, that's in every report on each
15	said yesterday. I used the plain and	15	of the three patents.
16	ordinary ordinary meaning of what a POSA	16	Q. I want to turn to your '113
17	would understand it, and in cases where I felt	17	declaration, Paragraph 151, Page 100.
18	that required some explanation, I provided it.	18	A. Excuse me. What page and paragraph?
19	Q. Okay.	19	Q. Paragraph 151 in the '113 dec.
20	A. I just want to check the hold on.	20	A. And we're talking about the '113
21	I think that's in all three reports. It's	21	patent; right?
22	definitely in the '298, it's in the '777, and	22	Q. The '113 declaration.
23	it's in the '113, yes.	23	A. Right. But I mean, obviously,
24	MR. TYSON: Just for the	24	that's related to the '113 patent. Okay.
25	record, can you clarify what, when you're	25	Q. Here you have an opinion where you
	Page 325		Page 32
1	DR. THOMAS F. LA PORTA	1	DR. THOMAS F. LA PORTA
2	state that Archer teaches after a call	2	analog or digital. You say Archer teaches
		-	
3	initiates a call after a caller initiates a	3	that; right?
3 4	initiates a call after a caller initiates a call	3 4	that; right? MR. TYSON: Object to the
4 5			MR. TYSON: Object to the form, scope.
4 5 6	call	4	MR. TYSON: Object to the form, scope. A. That's correct.
4 5	call A. Excuse me for asking again, what	4 5	MR. TYSON: Object to the form, scope.
4 5 6 7 8	 call A. Excuse me for asking again, what paragraph again? 153 you said? Q. 151. A. 151. I'm on the wrong page. Okay. 	4 5 6	MR. TYSON: Object to the form, scope. A. That's correct. Q. And then you say, that network is coupled to converter 126 which converts the
4 5 6 7 8 9	 call A. Excuse me for asking again, what paragraph again? 153 you said? Q. 151. A. 151. I'm on the wrong page. Okay. I I just want to read the context of what 	4 5 6 7 8 9	MR. TYSON: Object to the form, scope. A. That's correct. Q. And then you say, that network is coupled to converter 126 which converts the analog signals into a digital protocol.
4 5 7 8 9 10	 call A. Excuse me for asking again, what paragraph again? 153 you said? Q. 151. A. 151. I'm on the wrong page. Okay. I I just want to read the context of what this says before I 	4 5 7 8 9 10	MR. TYSON: Object to the form, scope. A. That's correct. Q. And then you say, that network is coupled to converter 126 which converts the analog signals into a digital protocol. A. That's correct.
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1	DR. THOMAS F. LA PORTA	1	DR. THOMAS F. LA PORTA
2	they were. But but there could be analog	2	communication network.
3	lines in them.	3	Q. Uh-huh.
4	Q. Right. So we just went over that	4	A. And then those signals that are
5	word. The actual communication network could	5	analog are converted into the digital protocol.
6	be analog or digital?	6	Obviously, the signals that are digital don't
7	A. Right.	7	have to be converted into a digital protocol;
8	Q. But once it connects to the	8	they're already digital. So I was covering two
9	converter, it's connecting to it as an analog	9	cases in one sentence.
10	signal?	10	Q. So if you have an analog signal
11	MR. TYSON: Object to the	11	coming out of the telecommunications network,
12	form.	12	yesterday we covered the ground that that would
13	Q. That's how you say Archer teaches	13	never connect to a tandem switch; correct?
14	it; right?	14	MR. TYSON: Object to the
15	A. I say it teaches it as it couples	15	form.
16	either with analog signals or digital signals.	16	A. I don't remember covering that. I
17	Q. You say it's coupled to a converter	17	don't think I ever said that if something was
18	which converts the analog signals into a	18	analog, it had to be it could not be
19	digital protocol. So you're explicit that	19	connected to a tandem switch.
20	analog signals are coming out of the	20	Q. Tandem switches communicate in
21	communication network 118 to converter?	21	digital protocols as of the date of the
22	A. No. You're reading it out of	22	invention. A POSA would understand that;
23	context. The first sentence before that says,	23	right?
24	the call signals are transmitted as analog or	24	MR. TYSON: Object to the form
25	digital signals over circuit-switched	25	and scope.
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1	Page 329 DR. THOMAS F. LA PORTA	1	Page 330 DR. THOMAS F. LA PORTA
1 2		1 2	
	DR. THOMAS F. LA PORTA		DR. THOMAS F. LA PORTA the fact it does not have to convert them. See, the next sentence says, the
2 3 4	DR. THOMAS F. LA PORTA A. I think what I said yesterday was in a large, large percentage of cases, that would be true. But I said there could have been very	2 3 4	DR. THOMAS F. LA PORTA the fact it does not have to convert them. See, the next sentence says, the digital data is then routed to the packet-
2 3 4 5	DR. THOMAS F. LA PORTA A. I think what I said yesterday was in a large, large percentage of cases, that would be true. But I said there could have been very small shops, you know, small countries, that	2 3 4 5	DR. THOMAS F. LA PORTA the fact it does not have to convert them. See, the next sentence says, the digital data is then routed to the packet- switched network to the server processor. So
2 3 4 5 6	DR. THOMAS F. LA PORTA A. I think what I said yesterday was in a large, large percentage of cases, that would be true. But I said there could have been very small shops, you know, small countries, that still used old equipment that had analog	2 3 4 5 6	DR. THOMAS F. LA PORTA the fact it does not have to convert them. See, the next sentence says, the digital data is then routed to the packet- switched network to the server processor. So if I if I can parse this for you, the way
2 3 4 5 6 7	DR. THOMAS F. LA PORTA A. I think what I said yesterday was in a large, large percentage of cases, that would be true. But I said there could have been very small shops, you know, small countries, that still used old equipment that had analog interconnect between networks.	2 3 4 5 6 7	DR. THOMAS F. LA PORTA the fact it does not have to convert them. See, the next sentence says, the digital data is then routed to the packet- switched network to the server processor. So if I if I can parse this for you, the way you could read it is the call signals are
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