

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BRIGHT HOUSE NETWORKS, LLC
WIDOPENWEST FINANCE, LLC
KNOLOGY OF FLORIDA, INC.
BIRCH COMMUNICATIONS, INC.,

Petitioner

v.

FOCAL IP, LLC,

Patent Owner

Case IPR2016-01259
Patent Number: 8,155,298

**DECLARATION OF REGIS J. "BUD" BATES IN SUPPORT OF PATENT
OWNER'S RESPONSE**

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Declaration of Regis J. “Bud” Bates

I, Regis J. “Bud” Bates, declare as follows:

1. My name is Regis J. “Bud” Bates, and I have been retained as an expert witness for *Inter Partes* Review of IPR2016-01259.

2. This report contains statements of my opinions formed to date and the bases and reasons for those opinions. I may offer additional opinions based on further review of materials in this case, including opinions and/or testimony of other expert witnesses.

3. I understand that this Declaration is being submitted along with Patent Owner’s Response. On December 19, 2016, the Patent Trial and Appeal Board (the “Board”) instituted an *inter partes* review (the “IPR”) and trial, pursuant to 35 U.S.C. § 314(a), as to claim 20 of U.S. Patent No. 8,155,298 (the “Challenged Claim” and the “’298 Patent,” respectively) on the following grounds:

1) Claim 20 is obvious over U.S. Pat. No. 6,683,870 to Archer (“Archer”), U.S. Pat. No. 5,958,016 to Chang (“Chang”), and the Admitted Prior Art; and

2) Claim 20 is obvious over Archer, Chang, U.S. Pat. No. 6,445,694 to Swartz (“Swartz”), and the Admitted Prior.

See Decision Granting Institution of *Inter Partes* Review, Dec. 19, 2016, Paper No. 23 (the “Decision”).

4. Capitalized terms found in this Declaration that are not defined herein have the meaning given them in Patent Owner’s Response.

5. In preparing this Declaration, I have reviewed the Petition, the declaration that accompanies the Petition, and the exhibits that have been submitted with the aforementioned filings.

Declaration of Regis J. “Bud” Bates

6. This Declaration is a statement of my opinions on issues, as understood by a “person of ordinary skill in the art” (“POSA”) in 1999-2000, related to the validity of the Challenged Claims of the ’298 Patent (the Challenged Patent) over the instituted grounds and the other issues raised by Petitioner.

7. I am of the opinion that the Challenged Claims of the ’298 Patent are patentable over all of the instituted grounds for the reasons discussed below.

I. QUALIFICATIONS

8. This section summarizes my career history, education, publications, and other relevant qualifications. My full curriculum vitae is attached as Appendix A to this report.

9. I have been involved in and with the telecommunications industry for 50 years and have seen the development and growth of the various technologies, infrastructure, legal, regulatory, and technical services.

10. Notably, I am the author of 20 books which outline the use of Voice and Data technologies used throughout the industry. As author of these books, I am situated to opine upon the state of the Telephone Networks, as well as the conclusions that both parties in this proceeding draw therefrom.

11. I am the founder and president of TC International Consulting, Inc. (TCIC), based in Heber, Arizona. I have held this position since the inception of the company in October 1989. TCIC is a full service consulting and training firm specializing in communications and computer convergence.

12. My role is to assist our client companies with the analysis of options, selection of vendors or products to meet their strategic goals, and training for

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