

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Bright House Networks, LLC,
WideOpenWest Finance, LLC,
Knology of Florida, Inc.
Birch Communications, Inc.
Petitioners

v.

Focal IP, LLC,
Patent Owner

Case No. IPR2016-01259
U.S. Patent No. 8,155,298

PETITIONERS' REQUEST FOR ORAL HEARING

Pursuant to 37 C.F.R. § 42.70(a), Petitioners Bright House Networks, LLC, WideOpenWest Finance, LLC, Knology of Florida, Inc., and Birch Communications, Inc. (collectively “Petitioners”) request an oral hearing in IPR Nos. IPR2016-01259; IPR2016-01261; IPR2016-01262; and IPR2016-01263. The Board has set Due Date 7 for September 19, 2017 for these IPRs. Paper No. 24 at 4, 6. Petitioners request (without any intent to waive consideration of any issue not requested) a total of 90 minutes for the Petitioners to address the following issues at the oral hearing for these IPRs:

1. The unpatentability of claims 1, 2, 8, 11, 15–19, 94, 95, 102, 109–13, 128, 163, 164, 166–168, 175, 179, 180–181 of U.S. Patent No. 8,457,113 (the “’113 Patent”) from Ground 1 (U.S. Patent No. 6,683,870 to Archer (“Archer”) in view of the knowledge and skill of a person of ordinary skill in the art (“POSA”) in May 2000), and claims 1, 2, 8, 11, 15-19, 94, 95, 102, 109-113, 128, and 168 of the ’113 Patent from Ground 2 (Archer in view of U.S. Patent No. 5,958,016 to Chang *et al.* (“Chang”) and the knowledge and skill of a POSA in May 2000) as relied upon in the Petition in IPR2016-01261;
2. Whether Patent Owner has met its burden to demonstrate patentability of proposed substitute claim 183 of the ’113 Patent in view of the teachings of Archer, Chang, U.S. Patent No. 6,442,169 to Lewis

- (“Lewis”), U.S. Patent No. 6,333,931 to LaPier (“LaPier”), and combinations of the teachings of such references in view of the knowledge and skill of a POSA, and the state of the art, in May 2000.
3. The unpatentability of claims 18, 21, 23, 25-26, 28-31, 37, 38, 41, 45 and 46 of U.S. Patent No. 7,747,777 (“the ’777 Patent”) from the instituted Ground (Archer in view of Chang and the knowledge and skill of a POSA in May 2000) as relied upon in the Petition in IPR2016-01262;
 4. Whether Patent Owner has met its burden to demonstrate patentability of proposed substitute claim 49 of the ’777 Patent in view of the teachings of Archer, Chang, Lewis, LaPier, and combinations of the teachings of such references in view of the knowledge and skill of a POSA, and the state of the art, in May 2000.
 5. The unpatentability of claim 1 of U.S. Patent No. 8,155,298 (“the ’298 Patent”) from the instituted Ground (Archer in view of Chang and the knowledge and skill of a POSA in May 2000) as relied upon in the Petition in IPR2016-01263;
 6. The unpatentability of claim 20 of the ’298 Patent from Ground 1 (Archer in view of Chang and the knowledge and skill of a POSA in May 2000) and Ground 2 (Archer in view of Chang, U.S. Patent No.

6,445,694 to Swartz (“Swartz”), and the knowledge and skill of a
POSA in May 2000) as relied upon in the Petition in IPR2016-01259;

7. Petitioners’ Motion to Exclude;
8. Responses to any issues identified in Patent Owner’s Request for Oral
Argument; and
9. Any other issues the Board deems necessary for issuing a final written
decision.

In coordination with Cisco Systems, Inc. (Petitioners in IPR2016-01254 and
IPR2016-01257) (“Cisco”), YMax Corporation (Petitioners in IPR2016-01256,
IPR2016-01258, and IPR2016-01260) (“YMax”) and the Patent Owner, Petitioners
also propose the following order for the oral hearings on September 19, 2017:

1. Petitioners IPRs where each side has 90 minutes;
2. Cisco’s IPRs where each side has 30 minutes; and
3. YMax’s IPRs where each side has 90 minutes.

Petitioners and Cisco have discussed areas of overlap between the IPR2016-
01261, IPR2016-01254 and IPR2016-01257 proceedings, and, to be respectful of
the Board’s time, will coordinate so as not to present redundant arguments to the
Board during the hearing. Petitioners additionally request that the Board provide
audio-visual equipment to display demonstrative exhibits, including a projector to
be connected to a laptop, and an ELMO for displaying documents of record. In

accordance with the Trial Practice Guide, Fed. Reg. Vol. 77, No. 157, at 48768,
Petitioners will contact the Board Trial Division paralegal to discuss this request.

Dated: August 21, 2017

Respectfully submitted,

By: /Wayne Stacy/
Wayne Stacy
USPTO Reg. No. 45,125
Baker Botts LLP
101 California Street, Suite 3600
San Francisco, CA 94111
*LEAD COUNSEL FOR
PETITIONERS*

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.