

Page 1	Page 3																								
<p>1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE PATENT TRIAL AND APPEAL BOARD</p> <p>2</p> <p>3 YMAX CORPORATION, *</p> <p style="padding-left: 40px;">Petitioner, *</p> <p>4 VS. * Case No. IPR2016-01260</p> <p>5 FOCAL IP, LLC, * Case No. IPR2016-01258</p> <p style="padding-left: 40px;">Patent owner. *</p> <p>7</p> <p>8</p> <p>9</p> <p>10 *****</p> <p>11</p> <p style="text-align: center;">12 ORAL DEPOSITION OF REGIS "BUD" BATES, JR.</p> <p>13</p> <p>14 *****</p> <p>15</p> <p style="text-align: center;">17 ANSWERS AND DEPOSITION OF REGIS "BUD" BATES, JR.,</p> <p>18 produced as a witness at the instance of the Petitioner,</p> <p>19 taken in the above-styled and numbered cause on the 9th</p> <p>20 day of August, 2017, A.D., beginning at 9:42 a.m.,</p> <p>21 before Rachel J. Payne, a Certified Shorthand Reporter</p> <p>22 in and for the State of Texas, in the offices of Nelson</p> <p>23 Bumgardner, located at 3131 7th Street, Suite 300, Fort</p> <p>24 Worth, Texas, in accordance with the Rules of Civil</p> <p>25 Procedure and the agreement hereinafter set forth.</p>	<p style="text-align: center;">1 I N D E X</p> <p>2 PAGE</p> <p>3 Appearances 2</p> <p>4 Exhibit Index 3</p> <p>5 REGIS "BUD" BATES, JR.</p> <p>6 Examination by Mr. Frank Fabiani 4</p> <p>7 Signature and Corrections 63</p> <p>8 Reporter's Certificate. 64</p> <p>9</p> <p style="text-align: center;">10 E X H I B I T S</p> <p>11 (Previously marked exhibits, but were referred to and attached.)</p> <p>12</p> <table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: left;">NO.</th> <th style="text-align: left;">DESCRIPTION</th> <th style="text-align: right;">PAGE</th> </tr> </thead> <tbody> <tr> <td>13 1001</td> <td>Wood, et al Patent No. US 7,764,777 B2</td> <td style="text-align: right;">39</td> </tr> <tr> <td>14 1030</td> <td>Lamb, et al Patent No. US 6,747,970 B1</td> <td style="text-align: right;">7</td> </tr> <tr> <td>15 1031</td> <td>Allen, et al Patent No. US 6,169,735 B1</td> <td style="text-align: right;">26</td> </tr> <tr> <td>16 2062-1</td> <td>Clean and redlined versions of the Proposed Substitute Claims</td> <td style="text-align: right;">44</td> </tr> <tr> <td>17 2062-2</td> <td>Clean and redlined versions of the Proposed Substitute Claims</td> <td style="text-align: right;">54</td> </tr> <tr> <td>18 2070-1</td> <td>Declaration of Regis J. "Bud" Bates In Support of Patent Owner's Reply in Support of Motion to Amend</td> <td style="text-align: right;">10</td> </tr> <tr> <td>19 2070-2</td> <td>Declaration of Regis J. "Bud" Bates in Support of Patent Owner's Reply in Support Of Motion to Amend, Case IPR2016-01258</td> <td style="text-align: right;">12</td> </tr> </tbody> </table> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	NO.	DESCRIPTION	PAGE	13 1001	Wood, et al Patent No. US 7,764,777 B2	39	14 1030	Lamb, et al Patent No. US 6,747,970 B1	7	15 1031	Allen, et al Patent No. US 6,169,735 B1	26	16 2062-1	Clean and redlined versions of the Proposed Substitute Claims	44	17 2062-2	Clean and redlined versions of the Proposed Substitute Claims	54	18 2070-1	Declaration of Regis J. "Bud" Bates In Support of Patent Owner's Reply in Support of Motion to Amend	10	19 2070-2	Declaration of Regis J. "Bud" Bates in Support of Patent Owner's Reply in Support Of Motion to Amend, Case IPR2016-01258	12
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Page 2	Page 4																								
<p style="text-align: center;">1 A P P E A R A N C E S</p> <p>2</p> <p>3 FOR THE PETITIONER:</p> <p>4 Mr. Frank Fabiani</p> <p style="padding-left: 40px;">Mr. Hassan Albakri</p> <p>5 BRYAN CAVE, LLP</p> <p style="padding-left: 40px;">1290 Avenue of the Americas</p> <p>6 New York, New York 10104</p> <p style="padding-left: 40px;">212.541.2000</p> <p>7 frank.fabiani@bryancave.com</p> <p>8</p> <p>9</p> <p>10 FOR THE PATENT OWNER:</p> <p>11 Mr. John Murphy</p> <p style="padding-left: 40px;">NELSON BUMGARDNER</p> <p style="padding-left: 40px;">3131 West 7th Street, Suite 300</p> <p>12 Fort Worth, Texas 76107</p> <p style="padding-left: 40px;">817.377.9111</p> <p>13 murphy@nelbum.com</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 REGIS "BUD" BATES, JR.,</p> <p>2 having been first duly cautioned and sworn to testify</p> <p>3 the truth, the whole truth and nothing but the truth,</p> <p>4 testified on his oath as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. FABIANI:</p> <p>7 Q. Good morning.</p> <p>8 A. Good morning.</p> <p>9 Q. Can you please state your name and address for</p> <p>10 the record, please.</p> <p>11 A. Sure. My name is Regis Jerome Bates, Jr.;</p> <p>12 however, I go by "Bud."</p> <p>13 My address is 3413 Ponderosa Loop in Heber,</p> <p>14 H-E-B-E-R, Arizona 85928.</p> <p>15 Q. So I know you have been deposed a number of</p> <p>16 times already in these -- in other related IPR</p> <p>17 proceedings, so presumably you are familiar with the</p> <p>18 process, but I just want to go over a couple of ground</p> <p>19 rules.</p> <p>20 A. Okay.</p> <p>21 Q. If you don't understand a question I'm asking</p> <p>22 you, just let me know and I'll do the best I can to</p> <p>23 rephrase it.</p> <p>24 A. Okay.</p> <p>25 Q. I might misstate some terms during the day, and</p>																								



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1 I just appreciate your patience, and you can always
2 point it out and I'll try to, you know, rephrase the
3 question or fix it.
4 A. All right.
5 Q. That being said, you must provide an answer to
6 each question. An attorney may object, but you still
7 need to answer the question unless you're explicitly
8 instructed not to answer.
9 A. Okay.
10 Q. If you need a break at any time, let me know
11 and we'll take a break. I'd just ask that you answer
12 any pending question.
13 A. Understood.
14 Q. And please state your answer for the court
15 reporter and don't use head nods or other nonverbal
16 forms of communication.
17 A. I will do my best.
18 Q. Is there any reason you are not able to provide
19 complete and truthful testimony today?
20 A. None at all.
21 Q. Do you understand that you are here to testify
22 with respect to your declarations in support of patent
23 owner's replies to petitioner's oppositions to the
24 motions to amend in IPR numbers 2016-01258 and IPR
25 2016-01260?

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1 A. Yes.
2 Q. Is your understanding that your testimony and
3 opinions in these two declarations relate to certain
4 substitute claims that PO has proposed -- patent owner
5 has proposed for US patent numbers 7764777 and 8457113?
6 A. Yes.
7 Q. I may refer to these two patents as the '777
8 and '113 patents if that's okay with you.
9 A. I do the same thing.
10 Q. So, Mr. Bates, did you write these
11 declarations?
12 A. I did.
13 Q. Were there any sections you didn't write?
14 A. There were some pieces in there that the
15 attorneys kind of fluffed up for me because of the --
16 I'm not a lawyer. So there are sections regarding
17 obviousness and things of that nature where I had help
18 with that.
19 Q. Okay. And can you just give me a feel for the
20 overall process of, you know, the back and forth or did
21 you provide a first draft and then they edited it or did
22 you -- did they provide you a draft?
23 A. Typically what I did is I read the opposition
24 and the -- the references that you used. I prepared a
25 document that was a -- I don't want to call it a draft,

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1 it was a work in progress because they build off of that
2 as we go along. And then normally I don't do a lot of
3 the legal stuff up front. I do put my own bio or CV in
4 there and things of that nature, but then as it's done,
5 the attorneys help me fine tune it to make sure I'm
6 staying within the guidelines of what I can do.
7 Q. And I'm -- how much time would you say you
8 spent overall on this declaration or these declarations?
9 A. With the reading of all the references, with
10 the writing of the declarations and so on, there's
11 probably about 70-plus hours.
12 Q. Just on these reply declarations?
13 A. Yeah. A lot of documents to read.
14 Q. And so you read each and every reference in
15 full?
16 A. No. I read specific cases or specific parts of
17 them, yeah. I tried not to read them in full if it --
18 if it only cited to a specific quote.
19 Q. Did you review anything else that was not
20 already in the record?
21 A. Not to my knowledge.
22 Q. So, Mr. Bates, I'm handing you Exhibit
23 YMAX-1030, which was previously marked in IPR 2016-01258
24 and it's U.S. Patent Number 6747970, and I think we can
25 call this the Lamb reference; is that okay?

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1 A. Okay. Does she need to mark it?
2 Q. I think it's already marked.
3 MR. FABIANI: Do you need this?
4 THE REPORTER: If it's already marked, I
5 don't need it.
6 MR. MURPHY: These things, if they're
7 already in the record, I don't think there's a reason to
8 mark them.
9 MR. FABIANI: So we'll just go ahead and
10 hand them the documents directly.
11 MR. MURPHY: As long as you identify what
12 it is.
13 MR. FABIANI: Right.
14 MR. MURPHY: Yeah. I don't think we need
15 to do anything other than that.
16 Q. (BY MR. FABIANI) So have you seen this
17 document before?
18 A. I have.
19 Q. And what is it exactly?
20 A. Could you repeat that?
21 Q. What is the document?
22 A. This is U.S. Patent 6747970B1, which is the
23 Lamb, et al, patent.
24 Q. Does Lamb ever use the term edge switch?
25 A. The -- do you suppose I could have a copy of my



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1 declaration? I'd like to --
2 Q. I think we can just stick with Lamb right now
3 just to see if it -- the question is about Lamb, so I
4 think we can just --
5 MR. MURPHY: This is not a memory test.
6 This is like a 200-page document, 69 pages, you're
7 asking him if this one word is used, you can let him
8 look at his declaration.
9 Q. Okay. So you're saying you can't recall right
10 now if Lamb uses the term edge switch?
11 A. Off the top of my head, I don't believe so.
12 Q. Do you think you'd be able to find it if I gave
13 you a chance?
14 A. Would you like me to go through it and see if I
15 can find it?
16 Q. I'm just asking if you think you could find
17 edge switch if you were given the chance.
18 A. I don't -- I don't know that I can answer that
19 right now. What I do recall from the bulk of what
20 everything is, Lamb uses the term "central office." I
21 don't recall off the top of my head, and I would have to
22 look it over to determine if they used the term "edge
23 switch."
24 Q. Okay. So can you turn to Column 27, Line 17
25 through 18 of Lamb, please?

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1 A. Column 27.
2 Q. Line 17 through 18.
3 A. 17 through 18. I'll ask you to bear with me, I
4 don't hear well. If you drop your voice, I won't hear
5 it.
6 Q. No worries.
7 A. Thank you.
8 Q. I don't take it personally.
9 A. Column 17, lines --
10 Q. Column 27?
11 A. Line 27.
12 Q. Column 27?
13 A. Column 27, sorry.
14 Q. I believe it's Lines 17 through 18. So it says
15 "The public phone switch 202-2 may be a public telephone
16 switch." Do you see that?
17 A. I do.
18 Q. In the 1999 to 2000 time frame, would a person
19 of ordinary skill in the art understand a tandem switch
20 to be a public phone switch?
21 A. A person of ordinary skill in the art at that
22 time would understand many switches to be public phone
23 switches.
24 Q. Would one of those switches be a tandem switch?
25 MR. MURPHY: Objection, form.

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1 A. One of those switches could be any number of
2 other switches, but if you're just calling out one
3 particular line here called public switch, as I
4 remember, and I told you that Lamb referred to their
5 public phone switch as in the central office. A person
6 of ordinary skill in the art at that time would
7 understand central office to be that classified or edge
8 switch.
9 Q. Once again, the question is in the 1999 to 2000
10 time frame, would a person of ordinary skill in the art
11 understand a tandem switch to be a public phone switch?
12 MR. MURPHY: Objection, form.
13 A. A person of ordinary skill in the art would
14 understand that a tandem switch is part of the public
15 switch telephone network.
16 Q. (BY MR. FABIANI) And what is a tandem switch?
17 A. A tandem switch is as defined in the claim
18 language here, the tandem switch is a switch that
19 connects to edge switches and connects to other tandem
20 switches in both the local as well as the different
21 geographical area.
22 Q. Okay. I'm going to hand you Exhibit 2070,
23 Exhibit Focal IP 2070, which was previously marked in
24 IPR -- strike that. Sorry.
25 It's Exhibit 2040 in IPR 01260 and it's

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1 entitled "Declaration of Regis J. Bud Bates in Support
2 of Patent Owner's Contingent Motion to Amend."
3 Can you turn to paragraph -- I believe it's
4 36. If you could read off Paragraph 36.
5 A. 46?
6 Q. 36, sorry.
7 A. 36. I'm reading Paragraph 36 from my
8 declaration. "A POSA would understand that a PSTN
9 tandem switch be construed as a switch in the PSTN that
10 interconnects other PSTN tandem switches and edge
11 switches."
12 Q. Is that -- is that definition the same
13 definition you just gave in your last answer?
14 A. I believe so.
15 MR. FABIANI: Can you read back his
16 testimony to him, is that possible?
17 (Requested portion was read.)
18 Q. (BY MR. FABIANI) I believe it's about -- so is
19 that the same or a different definition?
20 A. It was a little bit different, I added that,
21 but if I read up on Paragraph 35, I say something to the
22 effect about halfway down, a POSA in 2000 would have
23 known that several tandem switches would serve large
24 metropolitan areas in the United States and would
25 consider these switches to be local tandem switches from



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1 the perspective of a POSA in that particular
2 geographical area, which is how I lumped those two kind
3 of statements together.
4 Q. So I'm going to hand you Exhibit 2070, IP 2070,
5 which was marked in IPR 2016-01260 and it's entitled
6 "Declaration of Regis Bud Bates in Support of Patent
7 Owner's Reply in Support of Motion to Amend."
8 A. Thank you.
9 Q. Can you turn to Paragraph 40, please. And you
10 see where it says "Petitioner's arguments, however, do
11 not consider that O'Neal and Lamb disclose their
12 respective call establishment methodologies in the
13 context of a controller connected to an edge switch. In
14 such an arrangement, the controller will not receive
15 call signaling, i.e., call request, since such signaling
16 does not pass beyond edge switches."
17 Do you see that?
18 A. I do.
19 Q. Does this mean that for a controller to receive
20 call signaling it must be connected to something other
21 than an edge switch?
22 MR. MURPHY: Objection, form.
23 A. The controller that we're referring to is the
24 TAC, the tandem access controller, which is connected to
25 a tandem switch, it's associated with a tandem switch.

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1 If we're beyond the edge switch, which is what I've been
2 saying, the signaling would not be passed through the
3 edge switch to the end device.
4 Q. (BY MR. FABIANI) Okay. So again, if something
5 receives signaling, in your opinion, it must be
6 connected to something other than an edge switch?
7 A. If something receives signaling, am I saying it
8 would be connected to something other than an edge
9 switch?
10 Q. Yes.
11 A. That is not what I just said. I said the
12 signaling does not go beyond the edge switch. An edge
13 switch will receive signaling, a tandem switch will
14 receive signaling, that's the SS7 network that I've
15 described in several of my declarations.
16 Q. So what must the controller be connected to to
17 receive signaling, can you give me an example?
18 MR. MURPHY: Objection, form.
19 A. Let's back up just a second here. All right.
20 There's different types of signaling in this network.
21 Okay? The signaling that we're referring to as being
22 edge switch, controller, tandem switches, things of that
23 nature, will receive SS7 signaling. Okay? There are
24 other types of signaling that we're talking about. To
25 ask me what must something be connected to in order to

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1 receive signaling, all right -- you know, I mean, a
2 basic telephone generates in-band signaling information,
3 but that is not SS7, that is not the signaling that
4 we're talking about. We send the digits down the wires.
5 The controller that we're talking about here, the TAC,
6 would be connected as its defined as a tandem access
7 controller, so it's going to be in communications with
8 the tandem switch.
9 Q. (BY MR. FABIANI) Okay. So when they say the
10 controller will not receive call signaling, such as --
11 you mean SS7 signaling here; is that correct?
12 A. Say that again, please.
13 Q. In Paragraph 40, you say "In such an
14 arrangement, the controller will not receive call
15 signaling." Here you mean SS7 signaling as an example;
16 is that correct?
17 MR. MURPHY: Objection, form.
18 A. What I'm referring to here is that in
19 describing O'Neil and Lamb and so on, their respective
20 call establishment methodologies in the context of a
21 controller that is connected to an edge switch, so
22 they're on the other side of the edge switch in such an
23 arrangement, what I am saying is that controller will
24 not receive the call signaling, the SS7 type signaling
25 since the signaling does not pass beyond the edge

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1 switch.
2 Q. So you're saying that Lamb's TA -- TNS or THS
3 doesn't receive call signaling, that's your opinion?
4 A. What I'm saying is Lamb is defining an edge
5 switch, okay, and it's TNS and THS. The TNS is
6 connected at the central office, the edge switch. The
7 THS is a board of that. They can signal each other.
8 Q. Can we go to Column 12, Lines 50 through 65 of
9 Lamb?
10 A. I'm sorry. I missed --
11 Q. Column 12, Line 50.
12 A. Column 12, Line 50 of Lamb.
13 Q. Do you see where it says "A call signal message
14 is generally a specific signaling protocol message, such
15 as a message provided by the PINT or SS7 protocols" --
16 A. I do.
17 Q. -- "that is transferred between the
18 telecommunications hosting server and telecommunications
19 network server."
20 Do you see that?
21 A. Correct.
22 Q. So here Lamb is saying an example of call
23 signaling is SS7 signaling; is that correct?
24 A. Either SS7 or PINT, sure.
25 Q. So can we go to Column 20, Lines 46 through 58.



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1 Do you see where it says "The processor executes the
2 first user agent to receive in its telecommunications
3 hosting server at least one first call signaling message
4 from the connection based network indicating a request
5 to establish at least one call connection"?

6 A. I see that.

7 Q. What is the connection based network?

8 A. The connection based network is what we refer
9 to as the PSTN.

10 Q. So does this state that the THS,
11 telecommunications hosting server, receives call
12 signaling from PSTN?

13 MR. MURPHY: Objection, form.

14 A. Does the THS receive call signaling from --

15 Q. (BY MR. FABIANI) The PSTN?

16 A. -- the PSTN? It would basically be controlled,
17 the TNS is controlled by the THS and it sends
18 information to the processor to produce a connection.

19 Q. Is TNS the connection based network?

20 A. The TNS is connected to the edge switch. It's
21 right there in -- with the edge switch in the central
22 office as Lamb describes it.

23 Q. But it's a part of the connection based
24 network?

25 A. It is connected to the edge switch. It's not

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1 part of the edge switch network. The PSTN is the PSTN.
2 This is a device that's connected to it.

3 Q. So when it receives -- when Lamb says it
4 receives call signaling message from the connection
5 based network, it receives it from the edge switch?

6 A. The TNS is controlling that edge switch and
7 telling it to create a connection, so it's receiving it
8 from that TNS.

9 Q. I'm sorry. It says it receives it from the
10 connection based network and you said that the TNS isn't
11 part of the connection based network?

12 A. It's connected to the edge switch. It's
13 controlling that edge switch.

14 Q. Can we go to Column 24, Line 28 of that?

15 A. Column 24, line what?

16 Q. 28.

17 A. 28. Thank you.

18 Q. Do you see where it says "Also included is a
19 means for processing at least one call signaling message
20 to provide enhanced calling services including at least
21 one of conference calling, whisper room conference
22 calling, time-based whisper room conference calling" --

23 A. Okay. You referred me to line 28 and you
24 started reading some place else.

25 Q. I'm sorry. It's line 32.

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1 A. Okay. I see that.

2 Q. What does that mean to you?

3 A. Well --

4 MR. MURPHY: Objection, form.

5 A. -- it's an embodiment that basically the user
6 agent process, which is software in the THS is going to
7 perform within the hosting server, the THS. The user
8 agent process includes a means for receiving at least
9 one call signaling message indicating an incoming call
10 connection. So the THS is getting an information that
11 there's an incoming call connection, that's what it
12 means. I can read on that it -- also included is the
13 means for at least one call signaling message to provide
14 enhanced calling services, including one of at least
15 conference calling, whisper room conferencing,
16 time-based whisper, all of the different features that
17 the THS itself provides.

18 Q. So in a context of the PSTN, are you familiar
19 with the term STP?

20 A. I am.

21 Q. And what is an STP?

22 A. Signaling transfer point. An STP sits on the
23 SS7 network and it is a message packet switching that
24 sends SS7 messages from STP to STP or STP to SCP and so
25 on.

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1 Q. Is an edge switch an example of an STP?

2 A. No. An edge switch is an edge switch. An STP
3 does not provide voice communications.

4 Q. Okay. So are STPs directly connected to the
5 telephones?

6 A. No. They're connected to switches and
7 databases, and things of that nature.

8 Q. Can you give me an example of an STP?

9 A. Could you be more specific?

10 Q. Any kind of example of an STP, I just want
11 you -- do you know an example of an STP?

12 MR. MURPHY: Objection, form.

13 A. I mean, that's a question that could cover a
14 wide range, but I will give you a little bit of an idea
15 what an STP is. It's a packet switching system that
16 processes SS7 messages. SS7 messages are very specific
17 protocols that are used for the call setup, call
18 teardown signaling, signaling, okay, not the actual
19 call, but the signaling. So it's a packet based
20 switching system.

21 Q. And in the context of the PSTN, are you
22 familiar with the term SSP?

23 A. SSP is -- yes.

24 Q. And what is an SSP?

25 A. It's a switching service -- or service



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