UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

Focal IP, LLC,
Patent Owner

Patent No. 7,764,777 B2
Filing Date: Nov. 30, 2007
Issue Date: July. 27, 2010

BRANCH CALLING AND CALLER ID BASED CALL ROUTING
TELEPHONE FEATURES

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DECLARATION OF THOMAS F. LA PORTA IN SUPPORT OF PETITION

FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 7,764,777

Inter Partes Review No. _____

52.   The figure below illustrates the differences between circuit-switched

networks and packet-switched networks, at least as of 1996. Ex. 1049, 58-59, Fig.

2-34. In circuit-switched network (a), the physical "copper wire" connection was

set up when the call was made, forming a dedicated path for the call. *Id.* In the

packet-switched network (b), however, the packets were divided up and queued for
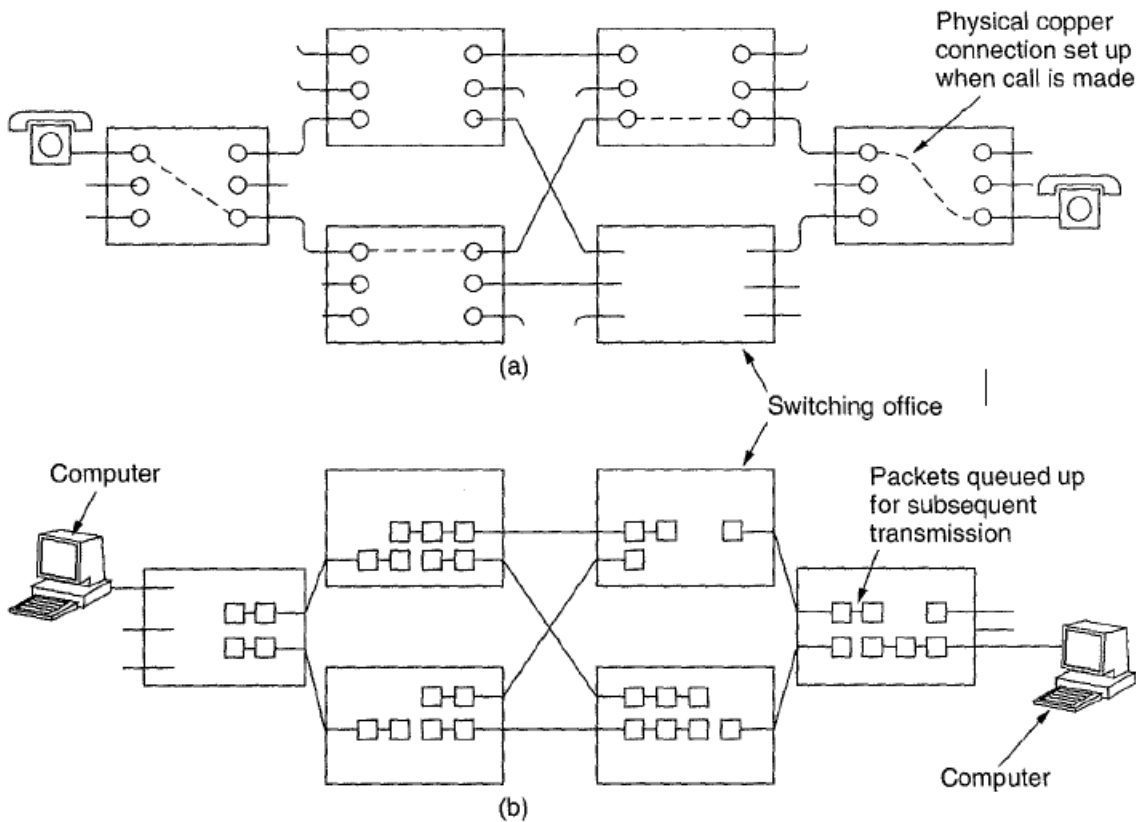
transmission. *Id.*

Fig. 2-34. (a) Circuit switching. (b) Packet switching.

1.   PSTN

53.   Telephony services, including voice-based telephone calls and fax

messaging, were generally carried out over the Public Switched Telephone

Network ("PSTN") in the mid-1990s to 2000. Ex. 1037, 91-92, 95-101. The PSTN

had been in existence for decades and consisted of a global network of circuit

switches arranged in a geographical hierarchy. Ex. 1037, 64-69, 11-92, 106-13,

139-45. In the PSTN hierarchy, switches known as tandem switches, or class 4

switches, served to interconnect geographical regions and edge switches, or class 5

switches, connected between tandem switches and end-user devices, like

telephones, within a local geographic area. Ex. 1037, 106-13, 119-22, 137-38, Fig.

4-4, 110 (shown below); Ex. 1001, 1:40-46.

telephone service subscriber to add, modify, and/or control, the telephony features of his or her own telephone service using the Internet. *Id.*, 1:29-36, 1:55-58, 1:66-2:11, 2:21-22, 2:46-48, 3:37-38, 4:44-51, 6:32-33. Call features that the '777 Patent acknowledges were well known include "conditional call blocking, call forwarding, call altering, time of day conditions, day of week conditions, follow-me, caller recognition/password, caller ID, call screening/retrieval from voice mail, speed dialing, interactive voice response, and speech recognition." *Id.*, 5:22-30, *see also* 1:66-2:4, 2:9-10, 2:37-39, 6:48-51. The '777 Patent also acknowledges that "Voice over Internet Protocol (VoIP) products emerging that provide better user interfaces and control." *Id.*, 2:46-48.

92.   The '777 Patent claims that there were problems with these systems related to either the location of where the call features were applied—in the terminating central office edge switches of telephone service providers or through subscriber edge devices, such as phones or public branch exchanges (PBX)—(*id.*, 1:58-62, 2:4-11, 2:40-46, 2:12-17, 3:33-34—or the type providers that offered the services—web-based toll systems that rely upon the toll network through the use of "800" numbers. *Id.*, 1:37-39, 2:23-30, 3:32-36.

93.   The '777 Patent's solution for the claimed invention was to provide web-based call selection features through a controller connected to a **tandem** switch rather than an **edge** switch, to provide the telephony features. PAL-1001,

1:63-65, 3:29-34; 3:42-43, 4:32-46, 5:1-22.

94.   The '777 patent discloses that its controller and system uses known technologies and conventional computer and telephony equipment. PAL-1001, 1:29-32, 1:36, 1:40-46, 2:46-48, 3:37-38, 3:61-4:3, 4:44-51, 5:7-12, 5:13-20, 5:22-30, 5:33, 5:57, 6:32-33, 6:44-52.

95.   During prosecution, applicants acknowledged the only aspect they considered novel was the location of where the call control features were applied— in a switching facility, rather than in a terminating edge switch. Ex. 1019, 87 n.1

Claim 18	
18[pre]	*[i]* A method for processing an incoming call from a switching facility on a communication network *[ii]* that comprises edge switches for routing calls to subscribers within a local geographic area and switching facilities for routing calls to edge switches, or other switching facilities local or in other geographic areas the method comprising the steps of:
18[a]	receiving a first call, which is intended for a specified recipient, at a controlling device in communication with the switching facility;
18[b]	*[i]* identifying one or more control criteria previously associated with the specified recipient, *[ii]* wherein the one or more control criteria was entered via a web-based interface;
18[c]	initiating a second call at the controlling device in accordance with the control criteria associated with the specified recipient; and
18[d]	connecting the first and second calls at the controlling device after the second call is received by a communication device associated with the specified recipient.
Claim 37	
37[pre]	*[i]* A method for processing an incoming call from a switching facility on a communication network *[ii]* that comprises edge switches for routing calls within a local geographic area and switching facilities for routing calls to other geographic areas, the method comprising the steps of:
37[a]	receiving a first call, at a controlling device in communication with the switching facility; which is intended for a specified recipient;

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