

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 IPR2016-01261
Patent Number: 8,457,113

**PATENT OWNER FOCAL IP, LLC'S PRELIMINARY RESPONSE
TO PETITION FOR INTER PARTES REVIEW**

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	SUMMARY OF ARGUMENT	1
III.	DISCUSSION OF THE PSTN AND OVERVIEW OF THE '113 PATENT	2
IV.	LEGAL STANDARDS.....	10
A.	Standard for Review.....	10
B.	Obviousness	10
1.	Claims Cannot be Found Obvious if an Element is Absent	11
2.	Reason to Combine or Modify Must Have Rational Underpinning.....	11
C.	Broadest Reasonable Interpretation	12
D.	BRI Cannot be so Broad to Include Elements That Have Been Disclaimed or Disavowed	14
V.	GENERAL DISCLAIMER OF CONTROLLERS CONNECTED TO EDGE SWITCHES.....	22
A.	Disparaging Statements in the '113 Patent	22
B.	Applicants' Statements in the Prosecution History to Distinguish over Schwab.....	27
1.	'777 Patent Prosecution - First Response to an Office Action.....	27
2.	'777 Patent Prosecution - Second Response to an Office Action	29
C.	Scope of General Disclaimer	33

VI.	CLAIM CONSTRUCTIONS.....	34
A.	“Switching Facility”	34
B.	“Coupled To”	41
VII.	SUMMARY OF THE REFERENCES	43
A.	Summary of Archer.....	43
B.	Summary of Chang	45
VIII.	ARGUMENTS	47
A.	Disclaimer of Edge Switches and Edge Devices (Claims 1, 94, and 163)	49
1.	Archer’s Alleged Web-Enabled Processing System is Connected to the Circuit-Switched Networks through Edge Switches, a Configuration not Within the Scope of the ’113 Patent’s Claims.....	49
B.	Archer’s “Converter” is an Edge Device and Teaches Away From the Independent Challenged Claims, and the “Converter” Cannot be a “Switching Facility”	50
C.	Archer Fails to Disclose “the Call Processing System Coupled” to a “Switching Facility of the Telecommunications Network,” as Recited in Claim 1, or a “Tandem Switch of the Circuit-Switched Network,” as Recited in Claim 94	52
1.	Archer’s Converters are Edge Devices, not Switching Facilities.....	52
2.	Petitioner’s Remaining Allegations Directed to Archer in Ground 1 are Equally Deficient	56
D.	Neither Archer, Alone, nor Archer combined with Chang Suggests Independent Challenged Claims 1 and 94	58

1.	Chang’s Secure Access Platform Does not Receive Call Data and Cannot be the “Call Processing System”	58
2.	No Reason to Combine Chang with Archer	61
3.	Petitioner’s Allegations Directed to Dependent Challenged Claims 18 and 19 are Deficient	63
IX.	CONCLUSION	64

TABLE OF AUTHORITIES

Cases:

<i>Apple Inc. v. Virnetx Inc.</i> , Case IPR2014-00481, Paper No. 35, (PTAB August 24, 2015)	13
<i>Bicon, Inc. v. Straumann Co.</i> , 441 F.3d 945 (Fed. Cir. 2006)	35
<i>CFMT, Inc. v. YieldUp Int’l Corp.</i> , 349 F.3d 1333 (Fed. Cir. 2003)	11
<i>Chi. Bd. Options Exch., Inc. v. Int’l Secs. Exch., LLC</i> , 677 F.3d 1361 (Fed. Cir. 2014)	16-17
<i>Edmund Optics, Inc. v. Semrock, Inc.</i> , Case IPR2014-00599, Paper 72 (PTAB September 16, 2015).....	14
<i>GE Lighting Solutions, LLC v. AgiLight, Inc.</i> , 750 F.3d 1304 (Fed. Cir. 2014)	15
<i>Google Inc., et al. v. Arendi S.A.R.L.</i> , Case IPR 2014-00452, Paper 31, (PTAB August 18, 2015)	15
<i>Graham v. John Deere Co. of Kansas City</i> , 383 U.S. 1 (1966).....	11
<i>Honeywell Int’l, Inc. v. ITT Indus., Inc.</i> , 452 F.3d 1312 (Fed. Cir. 2006)	19-21
<i>Innogenetics, N.V. v. Abbott Labs.</i> , 512 F.3d 1363 (Fed. Cir. 2008)	11
<i>In re Baker Hughes, Inc.</i> , 215 F.3d 1297 (Fed. Cir. 2000)	12

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.