

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

Petitioner

v.

FOCAL IP, LLC,

Patent Owner

Case IPR2016-01262
Patent Number: 7,764,777

**PATENT OWNER FOCAL IP, LLC'S 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 '777 PATENT	4
A.	Overview of the PSTN	4
B.	The '777 Patent	9
IV.	LEGAL STANDARDS.....	10
A.	Obviousness	10
V.	The '777 Patent Contains an Unmistakable Disclaimer of Subject Matter and Claim Scope for Call Controllers Connected to an Edge Switch or Edge Device.....	11
A.	Disparaging the Prior Art is Sufficient to Disclaim Claim Scope....	11
B.	Disclaimer in the '777 Patent.....	15
C.	The Prosecution History Confirms and Reinforces the Disclaimer, and Does Not Provide a Basis to Rescind the Plain Disclaimer from the Specification	22
D.	Scope of General Disclaimer	30
VI.	CLAIM CONSTRUCTION.....	31
A.	Legal Standards for Claim Construction - Broadest Reasonable Interpretation (“BRI”).....	31
B.	“Switching Facility”.....	32

C.	“Controlling Device”	37
D.	“Coupled To”/ “In Communication With”	37
VII.	SUMMARY OF THE REFERENCES	41
A.	State of the Art	41
B.	Summary of Archer.....	45
C.	Summary of Chang	48
VIII.	ARGUMENTS	50
A.	Archer Does Not Disclose that the Controlling Device Connects the First and Second Calls.	51
B.	Archer Does Not Disclose A Controlling Device in Communication with a Switching Facility.....	55
1.	Archer’s Converters Are Edge Devices, Not Switching Facilities.	55
2.	Archer Does Not Inherently Disclose that Archer’s Converter is Coupled to a Switching Facility.....	58
3.	It Would Not Be Obvious to a POSA to Couple Archer’s Converters to a Switching Facility	59
C.	Petitioner’s Obviousness Arguments Are Inadequate.....	61
IX.	CONCLUSION	61

TABLE OF AUTHORITIES

Cases:

<i>Akamai Techs., Inc. v. Limelight Networks, Inc.</i> , 629 F.3d 1311 (Fed. Cir. 2010).....	14-15
<i>Akamai Techs., Inc. v. Limelight Networks, Inc.</i> , 419 F. App'x 989 (Fed. Cir. 2011)	14
<i>Akamai Techs., Inc. v. Limelight Networks, Inc.</i> , 805 F.3d 1368 (Fed. Cir. 2015).....	14
<i>Ariosa Diagnostics v. Verinata Health, Inc.</i> , 805 F.3d 1359 (Fed. Cir. 2015).....	54-55
<i>Bicon, Inc. v. Straumann Co.</i> , 441 F.3d 945 (Fed. Cir. 2006).....	33
<i>Biogen, Inc. v. Berlex Labs., Inc.</i> , 318 F.3d 1132 (Fed. Cir. 2003).....	14-15
<i>Chi. Bd. Options Exch., Inc. v. Int'l Secs. Exch., LLC</i> , 677 F.3d 1361 (Fed. Cir. 2014).....	12-13, 32
<i>Edmund Optics, Inc. v. Semrock, Inc.</i> , Case IPR2014-00599, Paper 72 (PTAB Sept. 16, 2015).....	12
<i>Epistar Corp. v. Int'l Trade Comm'n</i> , 556 F.3d 1321 (Fed. Cir. 2009).....	13-14
<i>GE Lighting Solutions, LLC v. AgiLight, Inc.</i> , 750 F.3d 1304 (Fed. Cir. 2014).....	31
<i>Graham v. John Deere Co. of Kansas City</i> , 383 U.S. 1 (1966)	11, 61

<i>Hakim v. Cannon Avent Group, PLC,</i> 479 F.3d 1313 (Fed. Cir. 2007).....	28
<i>Honeywell Int'l, Inc. v. ITT Indus., Inc.,</i> 452 F.3d 1312 (Fed. Cir. 2006).....	13-15
<i>In re Baker Hughes, Inc.,</i> 215 F.3d 1297 (Fed. Cir. 2000).....	32
<i>In re CSB-Sys. Int'l,</i> 832 F.3d 1335 (Fed. Cir. 2016).....	31
<i>In re Kahn,</i> 441 F.3d 977 (Fed. Cir. 2006).....	11, 61
<i>In re Man Mach. Interface Techs. LLC,</i> 822 F.3d 1282 (Fed. Cir. 2016).....	2, 13, 32
<i>Innogenetics, N.V. v. Abbott Labs.,</i> 512 F.3d 1363 (Fed. Cir. 2008).....	11
<i>Intelligent Bio-Systems, Inc. v. Illumina Cambridge, Ltd.,</i> 821 F.3d 1359 (Fed. Cir. 2016).....	54
<i>Kingston Tech. Co., Inc. v. Imation Corp.,</i> Case IPR2015-00066, Paper 19 (PTAB March 24, 2016).....	12
<i>KSR Int'l Co. v. Teleflex Inc.,</i> 550 U.S. 398 (2007).....	11
<i>LG Electronics., Inc. v. Advanced Micro Devices, Inc.,</i> Case IPR2015-00324, Paper 39 (PTAB May 23, 2016).....	11
<i>Microsoft Corp. v. Proxyconn, Inc.,</i> 789 F.3d 1292 (Fed. Cir. 2015).....	32
<i>Openwave Sys., Inc. v. Apple Inc.,</i> 808 F.3d 509 (Fed. Cir. 2015).....	13

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.