

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 IPR2016-01262  
Patent Number: 7,764,777

---

**PATENT OWNER FOCAL IP, LLC'S OBJECTIONS TO EVIDENCE  
SUBMITTED UNDER 37 C.F.R. § 42.64(b)(1)**

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Focal IP, LLC hereby objects to the following evidence submitted, relied on, or cited to by Petitioners Bright House Networks, LLC, WideOpenWest Finance, LLC, Knology of Florida, Inc., and Birch Communications, Inc. in connection with Petitioners' Reply to Patent Owner's Response filed on June 26, 2017 and Petitioners' Opposition to Patent Owner's Contingent Motion to Amend filed on June 26, 2017.

1. Exhibit 1061 (transcript of deposition of Edward Dean Willis in IPR2016-01254 and IPR2016-01257) is objected to as hearsay under Fed. R. Evid. 801-802 because Dr. Willis is not an expert for Petitioners and the deposition of Dr. Willis was taken in different proceedings with different claims and/or prior art at issue. In addition, Exhibit 1061 is objected to under Fed. R. Evid. 401-403 and 37 C.F.R. § 42.62 because the deposition was taken in different proceedings with different claims and/or prior art at issue. The Exhibit is therefore irrelevant to this proceeding. Alternatively, the Exhibit is unfairly prejudicial, misleading, and confuses the issues.
2. The use of Exhibits 1057 (U.S. Patent No. 6,442,169 to Lewis) and 1058 (U.S. Patent No. 6,333,931 to LaPier) in connection with the Petition for *Inter Partes* Review is objected to under Fed. R. Evid. 401-403 and 37 C.F.R. § 42.62 because the Exhibits are beyond the scope of the instituted

*inter partes* review, and are unfairly prejudicial, misleading, and confuse the issues.

3. Paragraphs 34-36, 39, and 41-43, and other paragraphs of Exhibit 1065 (Expert Declaration of Thomas F. La Porta) that rely, directly or indirectly, on Exhibits 1057, 1058, and 1061 are objected to under Fed. R. Evid. 401-403 and 37 C.F.R. § 42.62. As explained above, Exhibits 1057, 1058, and 1061 are irrelevant, unfairly prejudicial, misleading, and confuse the issues. Accordingly, testimony regarding Exhibits 1057, 1058, and 1061 is irrelevant, unfairly prejudicial, misleading, and confuses the issues.
4. Exhibits 1067 and 1068 are objected to under 37 C.F.R. § 42.24(b) and the Board's guidance in Paper No. 29 because they circumvent the page limits for Petitioners' Opposition to Patent Owner's Contingent Motion to Amend.

Dated: June 30, 2017

Respectfully Submitted,

/s/ Brent N. Bumgardner  
Brent N. Bumgardner  
Registration No. 48,476  
NELSON BUMGARDNER, P.C.  
3131 W. 7th Street, Suite 300  
Fort Worth, Texas 76107  
Telephone: (817) 377-3490  
Email: [brent@nelbum.com](mailto:brent@nelbum.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on this 30th day of June 2017, a copy of Patent Owner FOCAL IP, LLC's Response to Petition for Inter Partes Review has been served in its entirety via email on the following:

Wayne Stacy  
BAKER BOTTS L.L.P.  
2001 Ross Avenue  
Dallas, TX 75201  
Phone: (214) 953-6678  
Facsimile: (214) 661-4678  
wayne.stacy@bakerbotts.com

Sarah J. Guske  
BAKER BOTTS L.L.P.  
101 California Street, #3070  
San Francisco, CA 94111  
Phone: (415) 291-6205  
Facsimile: (415) 291-6305  
sarah.guske@bakerbotts.com

May Eaton  
BAKER BOTTS L.L.P.  
1001 Page Mill Road  
Building One, Suite 200  
Palo Alto, CA 94304  
Phone: (650) 739-7520  
Facsimile: (650) 739-7620  
may.eaton@bakerbotts.com

Patrick McPherson  
Duane Morris LLP  
505 9<sup>th</sup> St. NW, Ste 1000  
Washington DC 20004  
Tel: 202-776-5214  
Fax: 202-776-7801  
PDMcPherson@duanemorris.com

Christopher Tyson  
Duane Morris LLP  
505 9<sup>th</sup> St. NW, Ste 1000  
Washington DC 20004  
Tel: 202-776-7851  
Fax: 202-776-7801  
CJTyson@duanemorris.com

Kyle Lynn Elliott  
Spencer Fane LLP  
1000 Walnut, Suite 1400  
Kansas City, MO 64106  
Tel: 816-292-8150  
Fax: 816-474-3216  
sfbaction@spencerfane.com

Dated: June 30, 2017

Respectfully Submitted,

/s/ Brent N. Bumgardner  
Brent N. Bumgardner  
Registration No. 48,476  
NELSON BUMGARDNER, P.C.  
3131 W. 7th Street, Suite 300  
Fort Worth, Texas 76107  
Telephone: (817) 377-3490  
Email: brent@nelbum.com