

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

**DECLARATION OF REGIS J. "BUD" BATES IN SUPPORT OF PATENT
OWNER'S RESPONSE**

TABLE OF CONTENTS

I. QUALIFICATIONS2

II. PERSON OF ORDINARY SKILL4

III. LEGAL UNDERSTANDING5

 A. ANTICIPATION.....5

 B. OBVIOUSNESS6

 C. BROADEST REASONABLE INTERPRETATION9

IV. DISCUSSION OF THE PSTN AND OVERVIEW OF THE CHALLENGED PATENT9

 A. Overview of the PSTN9

 B. The '777 Patent14

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. .16

 A. Disclaimer in the '777 Patent.....16

 B. The Prosecution History Confirms and Reinforces the Disclaimer, and Does Not Provide a Basis to Rescind the Plain Disclaimer from the Specification.22

 C. Scope of General Disclaimer.....29

VI. CLAIM CONSTRUCTION30

Declaration of Regis J. “Bud” Bates

A. “Switching Facility”30

B. “Controlling Device”33

C. “Coupled To” / “In Communication With”34

VII. SUMMARY OF THE REFERENCES36

A. State of the Art36

B. Summary of Archer41

C. Summary of Chang.....44

VIII. ARGUMENTS46

A. Archer Does Not Disclose that the Controlling Device Connects the First and Second Calls.46

B. Archer Does Not Disclose A Controlling Device in Communication with a Switching Facility.....49

1. Archer’s Converters Are Edge Devices, Not Switching Facilities.50

2. Archer Does Not Inherently Disclose that Archer’s Converter is Coupled to a Switching Facility.....53

3. It Would Not Be Obvious to a POSA to Couple Archer’s Converters to a Switching Facility.....53

C. Petitioner’s Obviousness Arguments Are Inadequate.55

IX. CONCLUSION.....55

Declaration of Regis J. “Bud” Bates

I, Regis J. “Bud” Bates, declare as follows:

1. My name is Regis J. “Bud” Bates, and I have been retained as an expert witness for *Inter Partes* Review of IPR2016-01262.

2. This report contains statements of my opinions formed to date and the bases and reasons for those opinions. I may offer additional opinions based on further review of materials in this case, including opinions and/or testimony of other expert witnesses.

3. I understand that this Declaration is being submitted along with Patent Owner’s Response. On January 3, 2017, the Patent Trial and Appeal Board (the “Board”) instituted an *inter partes* review (the “IPR”) and trial, pursuant to 35 U.S.C. § 314(a), as to Claims 18, 21, 23, 25, 26, 28-31, 37, 38, 41, 45, and 46 of U.S. Patent No. 7,764,777 (the “Challenged Claims” and the “777 Patent”, respectively) on the following ground: the Challenged Claims are obvious over U.S. Pat. No. 6,683,870 to Archer (“Archer”), U.S. Pat. No. 5,958,016 to Chang (“Chang”), and the Admitted Prior Art. *See* Decision Granting Institution of *Inter Partes* Review, Jan. 3, 2017, Paper No. 19.

4. Capitalized terms found in this Declaration that are not defined herein have the meaning given them in Patent Owner’s Response.

5. In preparing this Declaration, I have reviewed the Petition, the declaration that accompanies the Petition, and the exhibits that have been submitted with the aforementioned filings.

6. This Declaration is a statement of my opinions on issues, as understood by a “person of ordinary skill in the art” (“POSA”) in 1999-2000, related to the

validity of the Challenged Claims of the '777 Patent (the Challenged Patent) over the instituted grounds and the other issues raised by Petitioner.

7. I am of the opinion that the Challenged Claims of the '777 Patent are patentable over all of the instituted grounds for the reasons discussed below.

I. QUALIFICATIONS

8. This section summarizes my career history, education, publications, and other relevant qualifications. My full curriculum vitae is attached as Appendix A to this report.

9. I have been involved in and with the telecommunications industry for 50 years and have seen the development and growth of the various technologies, infrastructure, legal, regulatory, and technical services.

10. Notably, I am the author of 20 books which outline the use of Voice and Data technologies used throughout the industry. As author of these books, I am situated to opine upon the state of the Telephone Networks, as well as the conclusions that both parties in this proceeding draw therefrom.

11. I am the founder and president of TC International Consulting, Inc. (TCIC), based in Heber, Arizona. I have held this position since the inception of the company in October 1989. TCIC is a full service consulting and training firm specializing in communications and computer convergence.

12. My role is to assist our client companies with the analysis of options, selection of vendors or products to meet their strategic goals, and training for technologies including voice, telephone systems, data networks, video, Internet, wireless, wireless local area networks (LAN), voice over Internet Protocol (VoIP)

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