Reply to Patent Owner's Response IPR 2016-01263 U.S. Patent No. 8,155,298

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

Focal IP, LLC, Patent Owner

Case No. IPR2016-01263 U.S. Patent No. 8,155,298

Before SALLY C. MEDLEY, JONI Y. CHANG, and BARBARA A. PARVIS, ADMINISTRATIVE PATENT JUDGES.

PETITIONERS' REPLY TO PATENT OWNER'S RESPONSE



TABLE OF CONTENTS

			Page	
I.	INT	RODUCTION	1	
II.	ARCHER IN VIEW OF CHANG AND THE KNOWLEDGE AND SKILL OF A POSA DISCLOSE EACH LIMITATION OF THE CHALLENGED CLAIM			
	A.	Archer Discloses a Gateway Interconnecting a Controller (e.g. "webenabled processing system") on an IP Network to a Tandem Switch in the PSTN	4	
	В.	A POSA Understood that an IP Network Converging with the PSTN Could Be Connected to Either a PSTN Tandem Switch or PSTN Edge Switch and Without any Technical Differences	7	
	C.	Archer in view of Chang and the Knowledge and Skill of a POSA Discloses a Gateway Interconnecting a Controller on an IP Network to a Tandem Switch in the PSTN	12	
	D.	Archer Discloses a Controller Configured to Complete the Communication Link Between the User Initiating the Communication and the Intended Recipient When the Intended Recipient Accepts the Communication	14	
	E.	Conclusion: Archer in View of Chang and the Knowledge and Skill of a POSA Disclose All of the Limitations of the Challenged Claim Even Under Patent Owner's Constructions	16	
III.	THE CHALLENGED CLAIM IS ALSO OBVIOUS BECAUSE APPLICANT DID NOT CLEARLY AND UNMISTAKABLY DISCLAIM THE CLAIM SCOPE OF "SWITCHING FACILITY" AS ASSERTED BY PATENT OWNER			
	A.	Applicant's Introduction of "Switching Facilities" for the First Time During Prosecution of the '777 Patent Distinguishes this Case from All but One of the Cases Relied Upon by Patent Owner	18	
	В.	Patent Owner's Alleged Evidence of Disclaimer in the Shared Specification is Inapposite as it Refers to "Preferred" Embodiments or Systems Rather Than "the Invention" or the "Present Invention"	20	



Reply to Patent Owner's Response IPR 2016-01263 U.S. Patent No. 8,155,298

IV.	CON	CLUSION	28
		Constructions	27
	E.	Conclusion: Archer in View of Chang and the Knowledge and Skill of a POSA Disclose All of the Limitations of the Challenged Claim Under the Broadest Reasonable Interpretation of the Claims or Patent Owner's	
	D.	Patent Owner's Disclaimer Arguments Do Not Support Limiting the Recited Claim Terms	26
	C.	Applicant's Broad Definition During Prosecution, and Varied Location and Function Between Claims, Confirms that the Scope of "Switching Facilities" is Not Limited to the Preferred Embodiment of a PSTN Tandem Switch	22



PETITIONERS' REPLY EXHIBIT LIST

Exhibit Number	Document
1001	U.S. Patent No. 8,155,298 ("the '298 Patent")
1002	Expert Declaration of Dr. Thomas F. La Porta
1003	U.S. Patent No. 6,683,870 to Archer ("Archer")
1004	U.S. Patent No. 5,958,016 to Chang et al. ("Chang")
1006	U.S. Patent No. 7,764,777 ("the '777 Patent")
1007	U.S. Patent No. 8,457,113 ("the '113 Patent")
1008	File history of U.S. Patent No. 8,155,298
1010	File history of U.S. Patent No. 7,764,777
1054	U.S. Patent No. 6,574,328
1055	U.S. Patent No. 7,324,635
1058	U.S. Patent No. 6,333,931 to LaPier ("LaPier")
1059	May 8, 2017 Transcript of Deposition of Regis "Bud" Bates
1060	May 9, 2017 Transcript of Deposition of Regis "Bud" Bates
1061	March 1, 2017 Transcript of Deposition of Mr. Willis in IPR2016-01254, IPR2016-01257
1062	U.S. Patent No. 5,164,879 (Honeywell v. ITT)
1063	U.S. Patent No. 6,618,707 (Chi. Bd. Options)
1064	U.S. Patent No. 4,893,306 (Telcordia Techs.)
1065	Expert Declaration of Dr. Thomas F. La Porta in Support of Reply
1066	U.S. Patent No. 6,442,169 to Lewis ("Lewis")
2019	Deposition Transcript of Dr. La Porta, Feb. 24, 2017, for IPR 2016-01259, -01261, -01262, and -01263.
2020	Deposition Transcript of Dr. La Porta, Feb. 23, 2017, for IPR 2016-01259, -01261, -01262, and -01263.
2022	Declaration of Regis J. "Bud" Bates in Support of Patent Owner's Response in IPR2016-01263



Reply to Patent Owner's Response IPR 2016-01263 U.S. Patent No. 8,155,298

Exhibit Number	Document
2042	U.S. Pat. App. No. 11/948, 965, filed on November 20, 2007
	(annotations added by Patent Owner)
2043	U.S. Pat. App. No. 10/426,279, filed on April 30, 2003
	(annotations added by Patent Owner)
2044	U.S. Pat. App. No. 09/565,565, filed on May 4, 2000
	(annotations added by Patent Owner)

DOCKET

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.

