

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 B2

PETITIONERS' REQUEST FOR ORAL HEARING

Pursuant to 37 C.F.R. § 42.70(a), Petitioners Bright House Networks, LLC, WideOpenWest Finance, LLC, Knology of Florida, Inc., and Birch Communications, Inc. (collectively “Petitioners”) request an oral hearing in IPR Nos. IPR2016-01259; IPR2016-01261; IPR2016-01262; and IPR2016-01263. The Board has set Due Date 7 for September 19, 2017 for these IPRs. Paper No. 27 at 4, 6. Petitioners request (without any intent to waive consideration of any issue not requested) a total of 90 minutes for the Petitioners to address the following issues at the oral hearing for these IPRs:

1. The unpatentability of claims 1, 2, 8, 11, 15–19, 94, 95, 102, 109–13, 128, 163, 164, 166–168, 175, 179, 180–181 of U.S. Patent No. 8,457,113 (the “’113 Patent”) from Ground 1 (U.S. Patent No. 6,683,870 to Archer (“Archer”) in view of the knowledge and skill of a person of ordinary skill in the art (“POSA”) in May 2000), and claims 1, 2, 8, 11, 15-19, 94, 95, 102, 109-113, 128, and 168 of the ’113 Patent from Ground 2 (Archer in view of U.S. Patent No. 5,958,016 to Chang *et al.* (“Chang”) and the knowledge and skill of a POSA in May 2000) as relied upon in the Petition in IPR2016-01261;
2. Whether Patent Owner has met its burden to demonstrate patentability of proposed substitute claim 183 of the ’113 Patent in view of the teachings of Archer, Chang, U.S. Patent No. 6,442,169 to Lewis

- (“Lewis”), U.S. Patent No. 6,333,931 to LaPier (“LaPier”), and combinations of the teachings of such references in view of the knowledge and skill of a POSA, and the state of the art, in May 2000.
3. The unpatentability of claims 18, 21, 23, 25-26, 28-31, 37, 38, 41, 45 and 46 of U.S. Patent No. 7,747,777 (“the ’777 Patent”) from the instituted Ground (Archer in view of Chang and the knowledge and skill of a POSA in May 2000) as relied upon in the Petition in IPR2016-01262;
 4. Whether Patent Owner has met its burden to demonstrate patentability of proposed substitute claim 49 of the ’777 Patent in view of the teachings of Archer, Chang, Lewis, LaPier, and combinations of the teachings of such references in view of the knowledge and skill of a POSA, and the state of the art, in May 2000.
 5. The unpatentability of claim 1 of U.S. Patent No. 8,155,298 (“the ’298 Patent”) from the instituted Ground (Archer in view of Chang and the knowledge and skill of a POSA in May 2000) as relied upon in the Petition in IPR2016-01263;
 6. The unpatentability of claim 20 of the ’298 Patent from Ground 1 (Archer in view of Chang and the knowledge and skill of a POSA in May 2000) and Ground 2 (Archer in view of Chang, U.S. Patent No.

6,445,694 to Swartz (“Swartz”), and the knowledge and skill of a
POSA in May 2000) as relied upon in the Petition in IPR2016-01259;

7. Petitioners’ Motion to Exclude;
8. Responses to any issues identified in Patent Owner’s Request for Oral
Argument; and
9. Any other issues the Board deems necessary for issuing a final written
decision.

In coordination with Cisco Systems, Inc. (Petitioners in IPR2016-01254 and
IPR2016-01257) (“Cisco”), YMax Corporation (Petitioners in IPR2016-01256,
IPR2016-01258, and IPR2016-01260) (“YMax”) and the Patent Owner, Petitioners
also propose the following order for the oral hearings on September 19, 2017:

1. Petitioners IPRs where each side has 90 minutes;
2. Cisco’s IPRs where each side has 30 minutes; and
3. YMax’s IPRs where each side has 90 minutes.

Petitioners and Cisco have discussed areas of overlap between the IPR2016-
01261, IPR2016-01254 and IPR2016-01257 proceedings, and, to be respectful of
the Board’s time, will coordinate so as not to present redundant arguments to the
Board during the hearing. Petitioners additionally request that the Board provide
audio-visual equipment to display demonstrative exhibits, including a projector to
be connected to a laptop, and an ELMO for displaying documents of record. In

accordance with the Trial Practice Guide, Fed. Reg. Vol. 77, No. 157, at 48768,
Petitioners will contact the Board Trial Division paralegal to discuss this request.

Dated: August 21, 2017

Respectfully submitted,

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