

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 IPR2016-01263  
Patent Number: 8,155,298

---

**PATENT OWNER FOCAL IP, LLC'S PRELIMINARY 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 '298 PATENT.....	2
IV.	LEGAL STANDARDS.....	10
A.	Standard for Review.....	10
B.	Obviousness .....	10
1.	Claims Cannot be Found Obvious if an Element is Absent .....	11
2.	Reason to Combine or Modify Must Have Rational Underpinning.....	11
C.	Broadest Reasonable Interpretation .....	12
D.	BRI Cannot be so Broad to Include Elements That Have Been Disclaimed or Disavowed .....	14
V.	GENERAL DISCLAIMER OF CONTROLLERS CONNECTED TO EDGE SWITCHES.....	21
A.	Disparaging Statements in the '298 Patent .....	21
B.	Applicants' Statements in the Prosecution History to Distinguish over Schwab .....	27
1.	'777 Patent Prosecution - First Response to an Office Action.....	27
2.	'777 Patent Prosecution - Second Response to an Office Action .....	29
C.	Scope of General Disclaimer .....	32

VI.	CLAIM CONSTRUCTIONS.....	33
A.	“Switching Facility” .....	33
B.	“Coupled To” .....	39
C.	“Web-Enabled Processing System” .....	41
VII.	SUMMARY OF THE REFERENCES.....	42
A.	Summary of Archer.....	42
B.	Summary of Chang .....	44
VIII.	ARGUMENTS.....	46
A.	Archer’s Server Processor is not Directly Connected to Switching Facilities .....	47
1.	The Subject Matter of Archer was Disclaimed and Does Not Satisfy the Construction of “Web-Enabled Processing System” Element .....	47
2.	Archer’s Converters 128/132a are not Switching Facilities.....	47
3.	Archer’s Converters Are not Switching Facilities of the Circuit Switched Network.....	51
B.	Archer’s Server Processor is not Indirectly Connected to Switching Facilities .....	51
C.	Chang Doesn’t Suggest Connecting Archer’s Server Processor to Switching Facilities.....	52
1.	Chang’s Secure Access Platform Is not Comparable to the Claimed Web-Enabled Processing System .....	53

2.	Coupling Archer’s Server Processor to a PSTN Switching Facility Would not Be Obvious .....	55
D.	Substituting Archer’s Server Processor in Place of Chang’s Secure Access Platform Does Not Render Claim 1 Obvious.....	57
IX.	CONCLUSION.....	58

## TABLE OF AUTHORITIES

### Cases:

<i>Apple Inc. v. Virnetx Inc.</i> , Case IPR2014-00481, Paper No. 35, (PTAB August 24, 2015) .....	13
<i>Bicon, Inc. v. Straumann Co.</i> , 441 F.3d 945 (Fed. Cir. 2006) .....	34
<i>CFMT, Inc. v. YieldUp Int’l Corp.</i> , 349 F.3d 1333 (Fed. Cir. 2003) .....	11
<i>Chi. Bd. Options Exch., Inc. v. Int’l Secs. Exch., LLC</i> , 677 F.3d 1361 (Fed. Cir. 2014) .....	15-17
<i>Edmund Optics, Inc. v. Semrock, Inc.</i> , Case IPR2014-00599, Paper 72, (PTAB September 16, 2015).....	14
<i>GE Lighting Solutions, LLC v. AgiLight, Inc.</i> , 750 F.3d 1304 (Fed. Cir. 2014) .....	15
<i>Google Inc., et al. v. Arendi S.A.R.L.</i> , Case IPR 2014-00452, Paper 31, (PTAB August 18, 2015) .....	15
<i>Graham v. John Deere Co. of Kansas City</i> , 383 U.S. 1 (1966).....	11, 57
<i>Honeywell Int’l, Inc. v. ITT Indus., Inc.</i> , 452 F.3d 1312 (Fed. Cir. 2006) .....	19-20
<i>Innogenetics, N.V. v. Abbott Labs.</i> , 512 F.3d 1363 (Fed. Cir. 2008) .....	11
<i>In re Baker Hughes, Inc.</i> , 215 F.3d 1297 (Fed. Cir. 2000) .....	12

# 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.