

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Juniper Networks, Inc., Ruckus Wireless, Inc., Brocade Communication
Systems, Inc. and Netgear, Inc.,

Petitioners

v.

ChriMar Systems, Inc.,

Patent Owner

Case No. IPR2016-01391

U.S. Patent No. 8,942,107

Petitioners' Response in Opposition to Patent Owner's Motion for Observations

Mail Stop Patent Board
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

TABLE OF AUTHORITIES

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Cases

Medtronic, Inc. v. Nuvasive, Inc., IPR2013-00506, Paper 37, 2-3 (Oct. 15, 2014)3, 15

Rules

Fed. Reg. Vol. 77, No. 157, 14 (Aug. 14, 2012)3, 15
37 C.F.R. § 42.6(c)1

Petitioners hereby submit their Response in Opposition to Patent Owner's Motion for Observations (Paper 44) ("Motion") regarding the cross-examination of Mr. Ian Crayford on July 21, 2017¹. Petitioners respond and object to each of Patent Owner's observations ("Obs.") as follows:

Response to Obs. No. 1: This excerpt is mischaracterized, misleading and irrelevant. The entire excerpt quotes from the examining attorney's (Mr. Lewry) question and **not** Mr. Crayford's testimony, and it excludes Mr. Lewry's preceding statement "I'm not talking about isoEthernet now." Ex. 2055², 25:9-13. Mr. Crayford's uncited response (*Id.*, 25:14-22) and related uncited testimony³ is

¹ Chrimar's Motion could be expunged as it references a deposition transcript (Ex. 2055) that was not in the record in contravention of 37 C.F.R. §42.6(c). Chrimar did not try to rectify this deficiency until August 8, after which the parties reached an agreement on August 11 (Paper 51) and the transcript was admitted on August 14.

² Cites to Ex. 2055 in this paper include the errata sheet (Ex. 1049) filed herewith.

³ *See id.*, 16:20-18:23, 24:2-25:7 ("[Hunter] says 'The draft standard 802.9a provides for the integration of . . . video, voice, and data services to a desktop computer system.' . . . [S]ome of the data services he's referring to are very specifically Ethernet data services . . . he's trying to implement a system that includes . . . a 10Base-T element and an ISDN or isochronous element"), 33:17-34:11, 34:23-35:6,

consistent with his opinions that various examples in Hunter teach Ethernet terminal equipment (e.g. 10Base-T equipment and systems) and Ethernet communications (e.g. 10Base-T, 100Base-T, and isoEthernet, which includes Ethernet and ISDN). Pet., 8-9, Reply, 10-18; Ex. 1046, ¶¶64-100; *infra* Nos. 14-29, 32.

Response to Obs. No. 2: This excerpt is incomplete (deletes testimony at Ex. 2055, 27:19-28:10), misleading (ignores related testimony at *id.*, 152:23-153:22) and irrelevant. None of the challenged claims require powering a PC over Ethernet cables. Reply, 1, 5-6; Pet. 3-5; Ex. 2055, 40:14-25. Mr. Crayford's testimony is consistent with Petitioners' arguments that the Hunter-Bulan combination teaches every limitation of such claims. Pet, 8-15, 21-41; Reply, 10-27. He also testified that Hunter teaches "provid[ing] enough power to maintain [] the phone network." Ex. 2055, 28:9-10, *see also id.*, 26:19-27:7, 33:17-20; 158:15-18.

Response to Obs. No. 3: This excerpt is misleading because, as Mr. Crayford explained in his rebuttal declaration (Ex. 1046, ¶¶66-67) and uncited testimony (e.g. Ex. 2055, 32:15-34:11, 43:15-44:10), based on a proper analysis of the disclosure of

41:7-43:20; 23:10-24, 25:3-7, 44:3-9, 50:13-18, 56:1-4, 57:6-18, 60:19-23, 61:9-62:3, 110:25-112:19, 115:20-117:23, 118:22-120:12, 125:12-126:20, 128:5-129:9, 129:18-130:17, 132:10-134:8, 134:3-8, 135:4-9, 135:19-23, 138:8-10, 138:16-18, 139:8-23, 146:14-148:4, 149:22-151:2, 178:11-181:10, 182:11-183.11.

the reference as a whole, Hunter teaches Ethernet in several different ways including “both an isoEthernet/802.9 network and also with parts of the network operating as 10Base-T LAN elements in that network.” Ex. 2055, 33:13-34:11; *see also id.*, 18:9-12 (Hunter specifically references the “802.9 standard.”); *supra* No. 1.

Response to Obs. No. 4: This excerpt is mischaracterized and misleading as it does **not** quote Mr. Crayford but rather quotes Mr. Lewry reading portions of a document (Ex. 2050 to Mr. Crayford’s deposition) that the Board denied Chrimar permission to file in this proceeding. Paper 42, 3. Petitioners have also moved to exclude Ex. 2050 and any related testimony, including that which Chrimar includes in Obs. No. 4. Paper 46. Chrimar’s citation to its attorney’s questions constitutes an improper introduction of new evidence and argument in its Motion, and an attempt to bypass the Court’s order rejecting its request to file a Sur-Reply. *Id.*; Fed. Reg. Vol. 77, No. 157, 14 (Aug. 14, 2012); *Medtronic, Inc. v. Nuvasive, Inc.*, IPR2013-00506, Paper 37, 2-3 (Oct. 15, 2014); Ex. 2055, 37:12-21, 38:11-19. Accordingly, Obs. No. 4 should be expunged. The excerpt is also irrelevant to any of the limitations of the challenged claims (*supra* Nos. 2, 3) and to the state of the art at the time of the invention (April 10, 1998) as the underlying unauthorized evidence is from 1999.

Response to Obs. No. 5: This excerpt is mischaracterized and misleading as it quotes Mr. Lewry’s questions and **not** Mr. Crayford’s testimony and excludes Mr. Crayford’s testimony in which he identified two different examples of references in

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