

United States Patent and Trademark Office

Before the Patent Trial and Appeal Board

**D-Link Systems, Inc.,
Petitioner**

v.

**Chrimar Systems, Inc.
Patent Owner**

**Case No. IPR2016-01425
U.S. Patent No. 8,155,012**

**Patent Owner's Preliminary Response
Under 37 C.F.R. § 42.107(a)**

Table of Contents

Table of Authorities	iv
Patent Owner's Exhibit List.	vi
Introduction and Summary of Arguments.	1
Background	3
A. Status of Related Litigation	3
B. Chrimar	5
C. The '012 Patent.	7
D. Person of Ordinary Skill	11
Arguments and Authorities	11
A. Legal Standard	11
B. The Petition does not name all real parties-in-interest.	12
1. Legal Standard	12
2. D-Link Corporation is an unnamed real party-in-interest.	14
C. Claim Construction	19
1. Prior Claim Constructors from the District Court Litigation	20
2. "wherein distinguishing information about the piece of Ethernet data terminal equipment is associated to impedance within the at least one path"	22
a. The distinguishing-information phrase defines structure that limits the claim.	24

b. Properly construed, the distinguishing-information phrase requires that the claimed piece of Ethernet data terminal equipment must be configured to be distinguishable from at least one other piece of Ethernet data terminal equipment on the same network.	26
D. Petitioner has not made a <i>prima facie</i> case that the '012 Patent's claims are obvious in view of any of the alleged combinations.	35
1. The combination of Chang and Patton does not meet every limitation of the claims.	36
a. Chang, alone, does not teach or disclose the distinguishing-information limitation.	36
2. Petitioner's proposed combination of Chang and Patton fails because: (1) it does not disclose or meet the distinguishing-information limitation; and (2) Chang explicitly disparages Patton's detection mechanism.	38
3. Applying the proper claim construction, the alleged combination of de Nijs and Chaudhry does not meet every element of the '012 Patent claims.	40
Conclusion	44
Certificate of Compliance with Word Count	46
Certificate of Service	47

Table of Authorities

Federal Cases

<i>AIA Eng'g Ltd. v. Magotteaux Int'l S/A,</i> 657 F.3d 1264 (Fed. Cir. 2011)	35
<i>Astrazeneca AB v. Mut. Pharm. Co.,</i> 384 F.3d 1333 (Fed. Cir. 2004).....	35
<i>Catalina Mktg. Int'l, Inc. v. Coolsavings.com, Inc.,</i> 289 F.3d 801 (Fed. Cir. 2002).....	25
<i>Chalumeau Power Sys., LLC v. Alcatel-Lucent,</i> No. 11-1175, 2013 WL 5913849 (D. Del. Oct. 30, 2013).....	36
<i>Dynamic Drinkware, LLC v. Nat'l Graphics, Inc.,</i> 800 F.3d 1375 (Fed. Cir. 2015)	12
<i>Freeman v. Gerber Prods. Co.,</i> 357 F. Supp. 2d 1290 (D. Kan. 2005)	24
<i>Gemalto S.A. v. HTC Corp.,</i> 754 F.3d 1364 (Fed. Cir. 2014)	34
<i>Gonzalez v. Banco Central Corp.,</i> 27 F.3d 751 (1st Cir. 1994)	13
<i>In re Gurley,</i> 27 F.3d 551 (Fed. Cir. 1994)	39
<i>In re Keum Nam Kim,</i> Appeal 2100-005480, 2014 WL 663955 (P.T.A.B. Feb. 18, 2014)	24
<i>In re Schreiber,</i> 128 F.3d 1473 (Fed. Cir. 1997)	24
<i>Microsoft Corp. v. Proxyconn, Inc.,</i> 789 F.3d 1292 (Fed. Cir. 2015)	20
<i>Netword, LLC v. Centraal Corp.,</i> 242 F.3d 1347 (Fed. Cir. 2001).....	34
<i>On Demand Mach. Corp. v. Ingram Indus., Inc.,</i> 442 F.3d 1331 (Fed. Cir. 2006).....	34
<i>Phillips v. AWH Corp,</i> 415 F.3d 1303 (Fed. Cir. 2005) (en banc)	33
<i>Reflectix, Inc. v. Promethean Insulation Tech. LLC,</i> IPR2015-00039, Paper 18 (2015).....	12
<i>Taylor v. Sturgell,</i> 553 U.S. 880 (2008)	13

Case No. IPR2016-01425
U.S. Patent No. 8,155,012

<i>Tietex Int'l, Ltd. v. Precision Fabrics Group, Inc.</i> , IPR2014-01248, Paper 39 (2016).....	12
<i>Zerto, Inc. v. EMC Corp.</i> , IPR2014-01254, Paper 35 at (2015)	12

State Cases

35 U.S.C. § 312(a)	12
35 U.S.C. § 313.....	3
35 U.S.C. § 314(a)	2, 11, 34

Cases

Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, (Aug. 14, 2012).....	12, 13, 14, 19
----------------------------------------------------------------------------------	----------------

Federal Statutes

37 C.F.R. § 42.100(b).....	20
37 C.F.R. § 42.104	12
37 C.F.R. § 42.107	3, 47
37 C.F.R. § 42.108(c).....	2, 11
37 C.F.R. § 42.22(a)(2).....	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.