UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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D-LINK SYSTEMS, INC.,
Petitioner,

v.

CHRIMAR SYSTEMS, INC.,
Patent Owner.

_____

Case IPR2016-01426
Patent 9,019,838 B2

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Before KARL D. EASTHOM, GREGG I. ANDERSON, and
ROBERT J. WEINSCHENK, *Administrative Patent Judges*.

WEINSCHENK, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

D-Link Systems, Inc. ("Petitioner") filed a Petition (Paper 1, "Pet.") requesting an *inter partes* review of claims 1, 2, 7, 26, 40, and 69 of U.S. Patent No. 9,019,838 B2 (Ex. 1001, "the '838 patent"). Chrimar Systems, Inc. ("Patent Owner") filed a Preliminary Response (Paper 7, "Prelim. Resp.") to the Petition. An *inter partes* review may not be instituted "unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." 35 U.S.C. § 314(a).

For the reasons set forth below, Petitioner does not demonstrate a reasonable likelihood of prevailing in showing the unpatentability of claims 1, 2, 7, 26, 40, and 69 of the '838 patent. Accordingly, the Petition is denied, and no trial is instituted.

A. *Related Proceedings*

The parties indicate that the '838 patent is the subject of several cases in the United States District Court for the Eastern District of Michigan, the United States District Court for the Eastern District of Texas, and the United States District Court for the Northern District of California. Pet. 1; Paper 5, 2–3; Ex. 1003. The parties also indicate that the following petitions for *inter partes* review are related to this case:

Case No.	Involved U.S. Patent No.
IPR2016-00569	U.S. Patent No. 8,942,107
IPR2016-00572	U.S. Patent No. 9,049,019
IPR2016-00573	U.S. Patent No. 9,019,838
IPR2016-00574	U.S. Patent No. 8,902,760
IPR2016-00983	U.S. Patent No. 8,155,012
IPR2016-01151	U.S. Patent No. 9,019,838
IPR2016-01389	U.S. Patent No. 8,155,012
IPR2016-01391	U.S. Patent No. 8,942,107

IPR2016-01397	U.S. Patent No. 9,019,838
IPR2016-01399	U.S. Patent No. 8,902,760
IPR2016-01425	U.S. Patent No. 8,155,012

Pet. 1–2; Paper 5, 3.

B.   *The '838 Patent*

The '838 patent relates to a system for managing, tracking, and identifying remotely located electronic equipment. Ex. 1001, col. 1, ll. 27–30. According to the '838 patent, one of the difficulties in managing a computerized office environment is keeping track of a company's electronic assets. *Id.* at col. 1, ll. 32–57. Previous systems for tracking electronic assets suffered from several deficiencies. *Id.* at col. 1, ll. 62–65. For example, previous systems could not determine the connection status or physical location of the asset and could only track those assets that were powered-up. *Id.* at col. 1, l. 65–col. 2, l. 2.

To address these deficiencies, the '838 patent describes a system for tracking an electronic asset using existing network wires. *Id.* at col. 2, ll. 3–6, col. 3, ll. 23–27. The system includes a central module and a remote module. *Id.* at col. 3, ll. 27–30. The remote module attaches to the electronic asset and transmits information to the central module by impressing a low frequency signal on the existing network wires. *Id.* A receiver in the central module monitors the information transmitted by the remote module. *Id.* at col. 3, ll. 30–32. The central module determines if the location of the electronic asset changes, and a database is updated accordingly. *Id.* at col. 3, ll. 37–40.

C.   *Illustrative Claim*

Claim 1 is independent and is reproduced below.

1. A central piece of network equipment comprising:

       at least one Ethernet connector comprising first and second pairs of contacts used to carry BaseT Ethernet communication signals; and

       the central piece of network equipment to detect different magnitudes of DC current flow via at least one of the contacts of the first and second pairs of contacts and to control application of at least one electrical condition to at least one of the contacts of the first and second pairs of contacts in response to at least one of the magnitudes of the DC current flow.

Ex. 1001, col. 17, ll. 13–23.

D.   *Evidence of Record*

Petitioner relies on the following references and declaration (Pet. 3):

Reference or Declaration	Exhibit No.
Chang et al., U.S. Patent No. 5,991,885 (issued Nov. 23, 1999) ("Chang")	Ex. 1006
Patton, U.S. Patent No. 5,121,482 (issued June 9, 1992) ("Patton")	Ex. 1007
Hunter et al., PCT Publication No. WO 96/23377 (published Aug. 1, 1996) ("Hunter")	Ex. 1008
Bulan et al., U.S. Patent No. 5,089,927 (issued Feb. 18, 1992) ("Bulan")	Ex. 1009
Declaration of Andrew Wolfe, Ph.D. ("Wolfe Declaration")	Ex. 1014

E.   *Asserted Grounds of Unpatentability*

Petitioner asserts that the challenged claims are unpatentable on the following grounds (Pet. 4):

Claim(s)	Basis	Reference(s)
1, 2, 7, 26, 40, and 69	35 U.S.C. § 103(a)	Chang and Patton
1, 2, 7, 26, 40, and 69	35 U.S.C. § 103(a)	Hunter and Bulan

II.   ANALYSIS

A.   *Claim Construction*

The claims of an unexpired patent are interpreted using the broadest reasonable interpretation in light of the specification of the patent in which

they appear. 37 C.F.R. § 42.100(b); *Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144–45 (2016). The parties identify several claim terms in the '838 patent that have been construed in related cases. Pet. 12; Prelim. Resp. 21–23. On this record and for purposes of this decision, we determine that no claim terms require express construction to resolve the parties' disputes regarding the asserted grounds of unpatentability in this case. *See infra* Section II.D; *Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999) ("[O]nly those terms need be construed that are in controversy, and only to the extent necessary to resolve the controversy.").

B.   *Priority Date of the '838 Patent*

Petitioner argues that the '838 patent is not entitled to the benefit of the filing date of U.S. Provisional Application No. 60/081,279 (Ex. 1005, "the '279 provisional") because the '279 provisional does not provide sufficient written description of claim 1 of the '838 patent. Pet. 10–12. As discussed below, even if we assume that the references relied on in the asserted grounds of unpatentability are prior art to the '838 patent, Petitioner does not demonstrate a reasonable likelihood of prevailing in showing the unpatentability of claims 1, 2, 7, 26, 40, and 69 of the '838 patent. *See infra* Section II.D. Therefore, on this record and for purposes of this decision, we need not determine whether the '838 patent is entitled to the benefit of the filing date of the '279 provisional.

C.   *Identification of Real Parties-in-Interest*

Patent Owner argues that the Petition should be denied because Petitioner did not identify D-Link Corporation as a real party-in-interest in the Petition. Prelim. Resp. 13–20. As discussed below, we deny the Petition because Petitioner does not demonstrate a reasonable likelihood of

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