UNITED STATES PATENT AND TRADEMARK OFFICE
_____

BEFORE THE PATENT TRIAL AND APPEAL BOARD
_____

CISCO SYSTEMS, INC.,
Petitioner

v.

TQ DELTA, LLC,
Patent Owner

_____

Case IPR2016-01466
Patent No. 8,611,404
_____

PETITIONER'S RESPONSE TO PATENT OWNER'S MOTION FOR OBSERVATION ON CROSS-EXAMINATION TESTIMONY

Cisco Systems Inc., ("Petitioner") submits this response in view of the Scheduling Order (Paper 8) and the Trial Practice Guide, 77 Fed. Reg. 48756, 48767–68 (Aug. 14, 2012). This paper responds to TQ Delta, LLC's ("Patent Owner") Motion for Observation on Cross-examination (Paper 26 "Mot. Obs.") filed on October 2, 2017, in the present *inter partes* review.

TQ Delta presented fifteen (15) observations on the September 25, 2017, deposition testimony of Dr. Kiaei (Ex. 2017). Although Petitioner responds to each of the observations below, the Board should deny TQ Delta's motion because the observations contain at least one of the following deficiencies: (1) they are not relevant to any issue; (2) they include attorney argument, and; (3) they mischaracterize Dr. Kiaei's testimony.

Response to Observation 1:

TQ Delta's observation omits relevant testimony. Specifically, Dr. Kiaei testified that "the ADSL standard in full power mode sets the minimal set of requirement for satisfactory transmission . . . The objective of this paragraph is that standard does not prevent you when needed and when you could improve on the equipment based on your own proprietary information or in design and so forth so that you allow for improvements. In full power mode, the standard says you have to go with this operation. In the low power mode, it allows you for improvements. And there were actually groups within the standard of DSL that

worked on G.lite, which was a version of ADSL and many other improvements

and variations of this and so on." Ex. 2017, 91:8-92:7. This testimony is consistent

with Dr. Kiaei's declaration testimony that "the ANSI standard describes

requirements for sending data in full power mode but also specifically allows for

improvements (e.g., low power mode as in Bowie and Yamano)." Ex. 1012, ¶23.

Further, TQ Delta's observation is not relevant to Petitioner's combination since

Bowie "shut[s] off…sections of signal processing 111, transmitting 112, and

receiving 113 circuitry" and places the loop "in an inactive state," which means

that superframes are not sent during Bowie's low power mode. Mot. Obs. 1;

Ex.1005, 5:26-28.

Response to Observation 2:

TQ Delta's cited deposition testimony pertains to a PLL synchronization

example in the '404 patent that is not relevant to Dr. Kiaei's declaration, which

relied on other portions of the '404 patent. Specifically, Dr. Kiaei explained that

the '404 patent's disclosure is broad since it teaches that "[o]ther forms of timing

signal may, of course, be used" for synchronization. Ex. 1012, ¶5 (citing Ex.1001,

5:47-50). Further, TQ Delta's observation omits relevant testimony where Dr.

Kiaei explains that "the PLL, that is one example of synchronization used here.

And DSL we have many different types of synchronization. Anyway, in [the '404]

patent it talks about different -- in the claim language talks about different

synchronization. May not necessarily fall to that, because if you only look at the timing error differences, assume that the PLL has a division by two, and even if it locks the phase on the output, which is changing the time, minimizing the timing error between them, the frequency is twice as much, and this will not work for DSL." Ex. 2017, 50:19-51:5. This testimony is consistent with Dr. Kiaei's declaration testimony that "[t]he claims at issue never limit synchronization to any specific type and much less do they require correcting errors." Ex. 1012, ¶5.

Response to Observation 3:

TQ Delta's observation is redundant with and cites the same testimony as observation 2. Also, TQ Delta's observation omits relevant testimony pertaining to the term "*synchronization signal*." Specifically, Dr. Kiaei testified that in the '404 patent's disclosure "the PLL, that is one example of synchronization used here. And DSL we have many different types of synchronization. Anyway, in this patent it talks about different -- in the claim language talks about different synchronization." Ex. 2017, 50:19-23. Dr. Kiaei's deposition testimony is consistent with his declaration testimony since the '248 patent, "broadly recognize that '[o]ther forms of timing signal may, of course, be used' for synchronization." Ex.1001, 5:47-50. Since the specification encompasses other forms of timing signals for synchronization and not just a pure tone, a POSITA would have understood that the claims are not limited to correcting errors or differences in the

timing references of the transmitter and receiver." Ex. 1012, ¶5. Furthermore, as to

the relevance to Yamano, Dr. Kiaei explained that Yamano's disclosure of using a

timing signal "to maintain synchronization [] of time intervals" between receiver

and transmitter circuits teaches the claimed "*maintaining synchronization with a*

second transceiver," even under TQ Delta's narrow construction. Ex. 1012, ¶17.

Response to Observation 4:

TQ Delta's observation is consistent and actually reaffirms Dr. Kiaei's

declaration testimony that "SNR and attenuation are measured and used during full

power mode" and that "a POSITA would have understood that in the context of the

patents at issue, the parameters associated with full power mode not only include

parameters used for transmission and reception of data (e.g., bits, gains, and

equalizer values) but also include parameters from which the transmission and

reception parameters are derived (e.g., attenuation, SNR)." Ex. 1012, ¶9. Further,

TQ Delta's attorney argument mischaracterizes the record since in *Wi-Lan*

considered Bowie's disclosure at 4:64-5:4 whereas here the Petition relied on other

portions of Bowie, which expressly disclose storing "loop *transmission*

characteristics" and using these transmission characteristics "to enable data

transmission to resume quickly." Petition, 14-15, 36; Ex. 1004, ¶51. Further still,

TQ Delta's observation is not relevant to this proceeding since the legal question

that TQ Delta raises from the *Wi-Lan* case pertains to a how a term in Bowie's

DOCKET ALARM

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.

fastcase®
Smarter legal research.