Filed on behalf of Petitioners

By: Todd R. Walters, Esq.

Roger H. Lee, Esq.

Jonathan R. Bowser, Esq.

Kyle K. Tsui, Esq.

BUCHANAN INGERSOLL & ROONEY PC

1737 King Street, Suite 500

Alexandria, Virginia 22314-2727

Telephone (703) 836-6620

Facsimile (703) 836-2021

todd.walters@bipc.com

roger.lee@bipc.com

jon.bowser@bipc.com

kyle.tsui@bipc.com

#### UNITED STATES PATENT AND TRADEMARK OFFICE

\_\_\_\_\_

#### BEFORE THE PATENT TRIAL AND APPEAL BOARD

\_\_\_\_\_

Corning Optical Communications RF LLC, Corning Incorporated, and Corning Optical Communications LLC Petitioners,

v.

PPC Broadband, Inc.
Patent Owner

\_....

Case No. To be assigned Patent 8,075,338

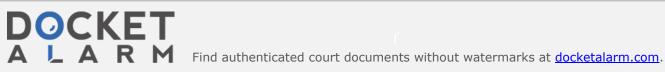
\_\_\_\_\_

PETITION FOR INTER PARTES REVIEW OF U.S. PATENT NO. 8,075,338 (CLAIMS 5, 6, AND 8) UNDER 35 U.S.C. §§ 311-319 AND 37 C.F.R. § 42.100



# TABLE OF CONTENTS

I.	INT	RODUCTION					
II.	MANDATORY NOTICES PURSUANT TO 37 C.F.R. § 42.8						
	A.	Real Party-In-Interest					
	B.	Identification of Related Matters Under 37 CFR § 42.8(b)(2)					
	C.	Lead and Backup Counsel					
	D.	Service Information					
III.	WO	RD CO	RD COUNT CERTIFICATION				
IV.	PAY	MEN'	MENT OF FEES				
V.	REQUIREMENTS UNDER 37 C.F.R. § 42.104						
	A.	Grounds for Standing					
	B.	Identification of Challenge and Precise Relief Requested					
		1.	Claims for Which <i>Inter Partes</i> Review Is Requested	4			
		2.	Specific Art and Statutory Grounds on Which the Challenges Are Based	4			
		3.	Supporting Evidence Relied Upon to Support the Challenge	5			
		4.	Prior Art Qualification of Asserted Reference	5			
		5.	How the Challenged Claims Are to Be Construed	6			
VI.	SUMMARY OF THE '338 PATENT						
	A.	Technical Background					
	B.	The '338 Patent and the Prior Art					
		1.	The '338 Patent	9			



		2.	The Prior Art	11	
	C.	Summary of Examination History of the '338 Patent			
		1.	The '503 application was allowed because the Examiner found that Bence would not have been combined with Spencer	13	
		2.	The Petition relies on connector structure disclosed by Bence not relied upon by the Examiner during <i>ex parte</i> prosecution	15	
		3.	The rejection during <i>ex parte</i> prosecution does not provide grounds for denying institution under 35 U.S.C. § 325(d)	17	
VII.	HOW THE CHALLENGED CLAIMS ARE TO BE CONSTRUED				
	A.	Claim	Construction Standard	18	
	B.	PPC's	s Infringement Allegations in the Related Litigation	18	
	C.	Claim	n Constructions	21	
		1.	Construction of "post"	22	
		2.	Construction of "a plurality of engagement fingers"	23	
		3.	Construction of "biased into a position of interference"	24	
		4.	Construction of "physical and electrical continuity"	25	
		5.	Construction of "axially aligned slots"	26	
		6.	Construction of "on"	27	
VIII.	PETITIONERS HAVE A REASONABLE LIKELIHOOD OF PREVAILING				
	A.	Claims 5, 6, and 8 Are Anticipated by Bence			
		1.	Reference to Where the Elements of Claims 5, 6, and 8  Are Found in the Prior Art	30	



		2.	Explanation of Why Claims 5, 6, and 8 Are Anticipated by Bence		
			a.	Bence discloses the "plurality of engagement fingers"	50
			b.	Bence discloses the "axially aligned slots"	50
			c.	Bence discloses axially aligned slots that are positioned "on" the post	51
	В.	Claims 5, 6, and 8 Would Have Been Obvious Over Bence			53
		1.	Reference to Where the Elements of Claims 5, 6, and 8 Are Found in the Prior Art		
		2.	-	anation of Why Claims 5, 6, and 8 Would Have Obvious	73
	C.	Any Purported Secondary Considerations Evidence Does Not Overcome the Strong Evidence of the Obviousness			83
IX.	CON	ICLUS	SION		83
APP]	ENDIX	X 1 - L	IST O	F EXHIBITS	



# **TABLE OF AUTHORITIES**

Cases	Page(s)
AFG Industries, Inc. v. Cardinal IG Co., Inc., 239 F.3d 1239 (Fed. Cir. 2001)	28
<i>In re Bond</i> , 910 F.2d 831 (Fed. Cir. 1990)	28
Chimei Innolux Corp. v. Semiconductor Energy Lab. Co., Ltd., IPR2013-00066, Paper 10 (PTAB Apr. 24, 2013)	17
Cuozzo Speed Techs., LLC v. Lee, No. 15-446, 579 U.S (2016)	18
Graham v. John Deere Co., 383 U.S. 1, 148 U.S.P.Q. 459 (1966)	29
In re Larson, 340 F.2d 965 (C.C.P.A. 1965)	77
Liebel-Flarsheim Co. v. Medrad, Inc., 358 F.3d 898 (Fed. Cir. 2004)	24
Munchkin, Inc. v. Skip Hop, Inc., IPR2016-00536, Paper 12 (PTAB Jul. 21, 2016)	17
Thorner v. Sony Comput. Entm't Am. LLC, 669 F.3d 1362 (Fed. Cir. 2012)	24
Trustees of Boston Univ. v. Everlight Elec. Co., Ltd., et al., 2016 WL 3976617 (D. Mass. Jul. 22, 2016)	28
Verdegaal Bros. v. Union Oil Co. of California, 814 F 2d 628 (Fed. Cir. 1987)	28



# DOCKET

# 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.

