

Patent No. 8,075,338
IPR2015-01573

Filed on behalf of Patent Owner, PPC Broadband, Inc.

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 IPR2016-01573
Patent 8,075,338

**DECLARATION OF CHARLES A. ELDERING, PH.D.
IN SUPPORT OF PATENT OWNER'S
PRELIMINARY PATENT OWNER RESPONSE**

PPC Exhibit 2030
Corning v. PPC
IPR2016-01573

1. I, Charles A. Eldering, Ph.D., submit this Declaration in support of PPC Broadband, Inc.'s ("PPC") Preliminary Patent Owner Response to the Petition for *Inter Partes* Review ("IPR") of claims 5, 6, and 8 of U.S. Patent No. 8,075,338 (the "338 Patent")(EX1001) filed by Petitioner, Corning Optical Communications RF, LLC et al. ("Corning") based upon my personal knowledge and my review of materials and information discussed in this Declaration.

2. I have been asked to review the Declaration of Mr. Locati (EX1003) and the Petition submitted in the above-captioned IPR (and exhibits cited therein respectively) where Corning and Mr. Locati have asserted and offered opinions that claims 5, 6, and 8 of the '336 Patent are anticipated and obvious.

3. I understand that Corning and Mr. Locati are of the view that that the claims 5, 6, and 8 of the '336 Patent are obvious based on U.S. Patent Application Publication No. 2006/0110977 ("Matthews")(EX1019) in view of U.S. Patent No. 4,156,554 ("Aujla")(EX1029) and U.S. Patent No. 7,114,990 ("Bence") (EX1002)

4. For the reasons the follow, I respectfully disagree with Mr. Locati's opinions, and, instead, I am of the opinion that the prior art, including Matthew, Aujla, and Bence does not render the claimed invention obvious.

5. I have been asked by PPC to prepare this Declaration setting forth my comments and opinions on whether the claims involved in these proceedings would have been anticipated or obvious to a person of ordinary skill in the art at the time

the '336 Patent was filed (2010) as asserted by Corning. In addition, I have reviewed the exhibits and other documents referenced in this Declaration. This Declaration sets forth my opinions and the basis, reasons, and evidence relied upon in forming those opinions.

6. I am being compensated for my services as an expert in this case at a billing rate of \$390 per hour.

7. I understand that the ultimate question of obviousness is a question of law with underlying facts for the trier of fact to decide. In determining whether a claimed invention is obvious I understand that the trier of fact must determine the scope and content of the prior art, identify the differences between the asserted claims and the prior art, determine the level of ordinary skill in the pertinent art at the time the invention was made, then decide whether each claim as a whole would have been obvious to a person of ordinary skill in the pertinent art when viewing the prior art.

8. To find that a combination of prior art rendered the invention obvious, I understand that a prima facie case of obviousness can only be established if each and every limitation in the claim are taught or suggested by the prior art.

9. Moreover, even if the prior art teaches each and every element in the claims at issue (which they did not), I understand that fact alone would not prove obviousness. Most, if not all, inventions rely on building blocks of prior art. I

understand that it is necessary to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue.

10. Thus, in evaluating whether a claimed invention is obvious, I must consider whether there was a reason that would have prompted a person having ordinary skill in the art to combine the known elements in a way the claimed invention does, taking into account factors such as whether the claimed invention was merely the predictable result of using prior art elements according to their known function, whether the claimed invention provides an obvious solution to a known problem in the relevant field, whether the prior art teaches or suggests the desirability of combining elements claimed in the invention, whether the prior art teaches away from combining elements in the claimed invention, whether it would have been obvious to try the combinations of elements, such as when there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, and whether the change resulted more from design incentives or other market forces.

11. In addition, to find that the prior art rendered the invention obvious, I must find that it provided a reasonable expectation of success, and I must consider each claim separately, and I cannot use hindsight – *i.e.*, I can consider only what was known at the time of the invention.

Experience, Qualifications, And Prior Testimony

12. I am an electrical engineer with over twenty years of experience spanning the fields of electronics and microelectronics, cable and telephone communications systems, optics, and intellectual property. A copy of my curriculum vitae has been submitted as Exhibit 2007 (EX2007).

13. My work experience includes working as an officer in the United States Air Force where I analyzed the reliability of microelectronic and electronic systems. I also conducted research in the areas of optics and materials at the University of California at Davis, where I was awarded a Ph.D. in electrical engineering. In addition, I worked for cable television and other companies in the telecommunications industry where I developed electronic and optical equipment and worked extensively with coaxial cable connectors, such as the ones involved in this case. A list of my publications can be found in my curriculum vitae.

14. I have been named as an inventor on over seventy issued United States patents listed in my curriculum vitae. I am a registered United States Patent Agent. As an agent, I have prosecuted patents before the United States Patent and Trademark Office.

15. I have been qualified as an expert witness on the topic of coaxial cable connectors several times and have testified as an expert witness for PPC in several cases.

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