UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC.,
Petitioner

v.

TQ DELTA, LLC,
Patent Owner

Case IPR2016-01760
Patent No. 9,094,268

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 10) 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 27 "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 '268 patent that is not relevant to Dr. Kiaei's declaration, which relied on other portions of the '268 patent. Specifically, Dr. Kiaei explained that the '268 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 '268] 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 "*maintaining synchronization with a second transceiver*." Specifically, Dr. Kiaei testified that in the '268 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

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