UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EMERSON ELECTRIC CO.,

Petitioner,

v.

SIPCO, LLC,

Patent Owner.

Case No. IPR2017-00216
Patent Number 8,013,732

Before LYNNE E. PETTIGREW, STACEY G. WHITE, and
CHRISTA P. ZADO, *Administrative Patent Judges*.

**PETITIONER'S RESPONSE TO PATENT OWNER'S
OBSERVATIONS ON CROSS-EXAMINATION
OF PETITIONER'S REPLY WITNESS DR. HEPPE**

Petitioner hereby responds to Patent Owner's ("PO") Observations of the December 21, 2017 cross-examination testimony of Dr. Heppe, Paper 39 ("Obs.").

Response to Observation 1. PO's Observation is *improper* and should be expunged or not considered because it contains attorney argument. To the extent considered, PO argues, *incorrectly*, that "Petitioner is conflating information that is useful to the measurement tools Kahn describes as being used only within the context of the PRNET… as opposed to what Kahn describes as actually being sent over the ARPANET." Obs. 3. Contrary to PO, Dr. Heppe testified that Kahn describes that "measurement data" is collected in the PRNET and transmitted to a gateway, which further transmits that "measurement data" "over the WAN" (ARPANET) to the "UCLA 360/91 computer." Ex. 2023, 147:7-148:5, 158:18-159:10, 61:19-62:5, 63:1-64:9; Ex. 1002, 1495, col. 1; *see also* Ex. 1004 ¶¶ 41, 67; Ex. 1046 ¶ 32. For example, PO *omits* Dr. Heppe's testimony that "the pickup packet contains *select information, which would be measurement data, plus the selectors of the multiple nodes along the path…. You write that information into the measurement file and transmit the contents over the WAN*. Yes, that is a disclosure of those elements of the claim" and "*measurement data … gets collected and written into the measurement file* as they are received *by the station*. So the *measurement file actually contains select information. It contains the IDs, and it also contains the data within a pickup packet, which includes the trace of*

all the repeaters along the route, the source as well as all the repeaters along the route…. *All of that information in the measurement file is ultimately passed through the gateway* and translated and formatted by the gateway process in order *to deliver that information across the ARPANET to the 360/91 computer at UCLA.*" Ex. 2023, 158:18-159:10, 63:1-64:9; *see also* Ex. 1004 ¶ 67; Ex. 1046 ¶¶ 28-32; Ex. 1002, 1495, col. 1. PO also *omits* Dr. Heppe's testimony that "[t]he *final destination* of the *PRNET measurement data is the UCLA 360/91 computer*" to be "use[d] by several analysis programs." Ex. 2023, 147:7-148:5; Ex. 1002, 1495, col. 1; *see also* Ex. 1004 ¶ 41; Ex. 1046 ¶ 32; Ex. 2023, 63:1-64:9, 152:23-154:23.

Response to Observation 2. PO's Observation is *improper* and should be expunged or not considered because it contains attorney argument. To the extent considered, PO argues, *incorrectly*, that "the claimed translation requires more than simply adding or removing headers to a packet" and "Dr. Heppe has provided no evidence of the required claimed translation." Obs. 5. PO *omits* Dr. Heppe's testimony that "the measurement file actually contains select information. It contains the IDs, and it also contains the data within a pickup packet, which includes the trace of all the repeaters along the route, the source as well as all the repeaters along the route…. *All of that information in the measurement file is ultimately passed through the gateway and translated and formatted by the*

gateway process in order to deliver that information across the ARPANET to the 360/91 computer at UCLA." Ex. 2023, 63:1-64:9; *see also* Ex. 1004 ¶¶ 67, 69-71; Ex. 1046 ¶¶ 37-41; Ex. 1002, 1494–1495; Ex. 1011, 1397-1400. PO also *omits* Dr. Dr. Heppe's testimony that "in paragraph 40 [of Ex. 1046], I note that Cerf explains *the encapsulation of internet datagrams in the packet format of each intermediate network is a form of protocol translation*.… [T]he PRNET uses lower level network and link layer protocols, which are not the same as the network and link layer protocols employed on the ARPANET. … [T]herefore, *when information moves from the PRNET to the ARPANET, or in the other direction, the information is encapsulated in different network and link layer packets. And Cerf describes those as a form of protocol translation.*" Ex. 2023, 41:16-44:9; Ex. Ex. 1004 ¶¶ 67, 69-71; Ex. 1046 ¶¶ 37-41; *see also* Ex. 2023, 138:17-139:5 ("Q. And do you agree that no payload undergoes protocol translation? *A. No, I disagree with that. That's a totally false statement.* We've already discussed that packets can move from a packet radio and an attached device through the packet radio network to the station and the gateway out over the ARPANET. Those packets contain a payload. *Clearly, those payloads are translated as they move through a gateway.*"), 44:10-45:2, 60:15-61:18, 67:17-25, 111:4-112:17, 128:12-129:5, 147:7-149:17.

Response to Observations 3 and 4.[1] PO's Observations are *improper* and should be expunged or not considered because they contains attorney argument. To the extent considered, PO argues, *incorrectly*, that "at no point does Kahn actually teach that the route setup packets ever pass through the gateway" (Obs. 5) and "Dr. Heppe has indicated it is not obvious that Kahn teaches a route setup packet crossing over to the ARPANET" (Obs. 6). As Dr. Heppe explained, in addition to teaching the use of "pickup packets" and including the "entire set of selectors" in the header, Kahn discloses the use of a "route setup packet" that also contains the entire set of selectors. Ex. 2023, 158:18-159:10, 63:1-64:9, 119:23-122:15, 123:9-124:16; Ex. 1002, 1495, col. 1, 1479, col. 2, 1482, col. 2; Ex. 1004 ¶¶ 61, 67; Ex. 1046 ¶¶ 22-24. PO *omits* Dr. Heppe's testimony that Kahn teaches that "*[a]ny packet* – exact words, *any packet may be a route setup packet*, subject only to the maximum packet length constraints of the network. Any packet. *A route setup packet may also contain data. So Kahn is clearly stating that any packet can be a route setup packet and they may contain data. Certainly there are packets in Kahn that move from the PRNET to the ARPANET*." Ex. 2023, 107:1-108:4; *see also* Ex. 1002, 1482, col. 2, 1479, col. 2; Ex. 1004 ¶ 61; Ex. 1046 ¶¶ 23, 25-26; Ex. 2023, 108:5-25, 124:17-125:11, 126:3-127:11.

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[1] PO's Observation apparently intended to cite Ex. 2014, 5:23-6:4; not *id.* 3:19-25.

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