UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JUNIPER NETWORKS, INC., BROCADE COMMUNICATIONS SYS., INC., AND RUCKUS WIRELESS, INC. Petitioner

v.

MOBILE TELECOMMUNICATIONS TECHNOLOGIES, LLC Patent Owner

Case IPR2017-00640 Patent 5,659,891

PATENT OWNER MOBILE TELECOMMUNICATIONS TECHNOLOGIES, LLC'S CORRECTED PRELIMINARY RESPONSE

Mail Stop ''PATENT BOARD''

Patent Trial and Appeal Board U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450

DOCKET

A L A R M Find authenticated court documents without watermarks at <u>docketalarm.com</u>.

TABLE OF CONTENTS

I.	BACKGROUND1						
II.	INTRODUCTION						
III.	PROPER CLAIM CONSTRUCTION						
	А.	Rules Governing Claim Construction – The <i>Phillips</i> Standard Governs					
		1.	A person of ordinary skill in the art would have the following qualifications				
		2.	The '891 Patent has expired so the <i>Phillips</i> standard governs.				
			i.	When construing claim terms look to claims themselves and then the specification			
			ii.	Limitations from the specification can be read into the claims6			
			iii.	Extrinsic evidence can be relied upon7			
	B.	Construction of Independent Claim Terms					
		1. Claims 1 and 3 – Same Location Limitation – The limitation of transmitting the plurality of paging carriers or at least two paging carriers "from the same location" means that "the multiple paging carriers emanate from the same location or antenna."					
		2.	The inde mea one	Claim 5 – Independent Carrier Reception Limitation – The limitation of "a plurality of mobile receiving units independently receiving one of said plurality of carriers" means "a mobile receiving unit is capable of receiving one carrier of the plurality of carriers independent from the other carriers of the plurality of carriers."			
		3.		ms 2 and 4 – adjacent [carriers/subchannels] overlap each other			
		4.	This	ms 1, 3, and 5 – Asymmetric Condition Limitation – limitation means that "the frequency difference veen the center frequency of the outer most of said			

			carriers and the band edge of the mask defining said channel is more than half the frequency difference between the center frequencies of each adjacent carrier where the mask is defined relative to the center frequencies of the unmodulated carriers."	14	
			i. The asymmetric condition of the '891 Patent, requires that $D_m > D_c$	19	
IV.	REFERENCES RELIED UPON BY PETITIONER				
	А.	MTe	l Petition	21	
	В.	'96 0	Publication	22	
	C.	Petro	ovic	22	
V.			1 – CLAIMS 1-4 ARE NOT OBVIOUS OVER <i>MTEL</i>	25	
	А.	or su	tent claim is obvious <i>only if</i> all of its limitations are taught ggested by prior art and combined in a manner that ains articulated reasoning and a rational underpinning	25	
	B.		<i>l Petition</i> does not teach or suggest all of the claim ations of independent Claims 1 and 3	26	
		1.	<i>MTel Petition</i> does not teach or suggest the Same Location Limitation of independent Claims 1 and 3, so Claims 1 and 3 are not rendered obvious	26	
		2.	<i>MTel Petition</i> does not teach or suggest the Asymmetric Condition Limitation of independent Claims 1 and 3, so Claims 1 and 3 are not rendered obvious	31	
		3.	Dependent Claims 2-4 are not rendered obvious by <i>MTel</i> <i>Petition</i> , because independent Claims 1 and 3 are not rendered obvious by <i>MTel Petition</i>	38	
VI.	GROUND 2 – CLAIM 5 IS NOT OBVIOUS OVER <i>MTEL</i> <i>PETITION</i> IN VIEW OF '960 PUBLICATION				
А.		or su	tent claim is obvious <i>only if</i> all of its limitations are taught ggested by prior art and combined in a manner that ains articulated reasoning and a rational underpinning	40	

	B.	<i>MTel Petition</i> in view of '960 Publication does not teach or suggest all the claim limitations of Claim 5, so Claim 5 is not rendered obvious41			
		1.	Neither <i>MTel Petition</i> nor '960 Publication teaches or suggests the Independent Carrier Reception Limitation of Claim 5, so Claim 5 is not rendered obvious		
		2.	Neither <i>MTel Petition</i> nor '960 Publication teaches or suggests the Asymmetric Condition Limitation of Claim 5, so Claim 5 is not rendered obvious		
VII.	GROUND 3 – CLAIM 5 IS NOT OBVIOUS OVER <i>PETROVIC</i> IN VIEW OF <i>MTEL PETITION</i>				
	А.	or sug	A patent claim is obvious <i>only if</i> all of its limitations are taught or suggested by prior art and combined in a manner that contains articulated reasoning and a rational underpinning5		
	В.	the cla	<i>Petrovic</i> in view of <i>MTel Petition</i> does not teach or suggest all the claim limitations of Claim 5, so Claim 5 is not rendered obvious		
		1.	Neither <i>Petrovic</i> nor <i>MTel Petition</i> teaches or suggests the Independent Carrier Reception Limitation of Claim 5, so Claim 5 is not rendered obvious		
		2.	Neither <i>Petrovic</i> nor <i>MTel Petition</i> teaches or suggests the Asymmetric Condition Limitation of Claim 5, so Claim 5 is not rendered obvious		
VIII.	CON	CLUSI	ON		

TABLE OF AUTHORITIES

Page

CASES

Ex parte Frye, 94 USPQ 2d 1072, 1076 (BPAI 2010) 25, 40, 51
Ex parte Papst-Motoren, 1 USPQ2d 1655 (Bd. Pat. App. & Inter. 1986)6
In re Am. Acad. of Sci. Tech. Ctr., 367 F.3d 1359, 70 USPQ2d 1827 (Fed. Cir. 2004)
In re Kahn, 41 F.3d 977, 988 (Fed. Cir. 2006)
In re Morris, 127 F.3d 1048, 44 USPQ2d 1023 (Fed. Cir. 1997)7
KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398, 418 (2007) 25, 40, 51
Phillips v. AWH Corp., 415 F.3d 1303 (Fed. Cir. 2005) passim
Pitney Bowes, Inc. v. Hewlett-Packard Co., 182 F.3d 1298 (Fed. Cir. 1999) 7, 15
Vitrionics Corp. v. Conceptronic, 90 F.3d 1576 (Fed. Cir. 1996)

OTHER AUTHORITIES

35 United States Code § 103	1
37 C.F.R. § 42.100	1
37 C.F.R. § 42.107	2
Manual of Patent Examining Procedure § 2111.01	7
Manual of Patent Examining Procedure § 2558	5

DOCKET A L A R M



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.