

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARRIS GROUP, INC.,
Petitioner

v.

MOBILE TELECOMMUNICATIONS TECHNOLOGIES, LLC
Patent Owner

Case IPR2016-00766
Patent 5,659,891

**PATENT OWNER MOBILE TELECOMMUNICATIONS
TECHNOLOGIES, LLC'S 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

TABLE OF CONTENTS

	<u>Page</u>
I. BACKGROUND	1
II. INTRODUCTION	2
III. PROPER CLAIM CONSTRUCTION	4
A. Rules Governing Claim Construction	4
1. New Testimonial Evidence Allowed	4
2. <i>Phillips</i> Standard Governs	4
i. Look to Claims Themselves and Then Specification	5
ii. Can Read Specification Limitations into Claims	5
iii. Can Rely on Extrinsic Evidence	5
3. District Court Construction Must Be Assessed	6
B. Background on the Technology and the ‘891 Patent	7
1. Person of Ordinary Skill in the Art	7
2. Demand for Channels Exceeds Supply	7
3. Increased Channel Capacity with Multiple Carriers	7
4. Near-far Interference	8
5. Symmetric Condition	9
6. No Near-Far Problem with Co-location	11
7. Asymmetric Condition	12
8. Claim Limitations and Increased Channel Capacity	13
C. Construction of Independent Claim Terms	13
1. “single mask-defined, bandlimited channel” of claims 1, 3, and 5	13
2. “band edge of the mask” of claims 1, 3, and 5	14
i. Patent Owner’s Construction	14
ii. Closest Band Edge Increases Message Capacity	20

iii.	Masks Confirm Closest Band Edge.....	21
iv.	Samsung IPR Construction.....	25
3.	“transmitting carriers from the same location” of claims 1, 3, and 5	32
i.	Patent Owner’s Construction.....	32
ii.	“Samsung IPR Construction”	34
IV.	REFERENCES RELIED UPON BY PETITIONER	35
A.	<i>Petrovic</i>	35
B.	<i>Raith</i>	37
C.	<i>Alakija</i>	38
V.	EMISSION MASK GROUND 1 – CLAIMS 1-5 ARE NOT ANTICIPATED BY <i>PETROVIC</i>	39
A.	<i>Petrovic</i> does not anticipate claims 1, 3, and 5.....	39
1.	Petitioner’s argument	40
2.	Patent Owner’s Argument.....	43
i.	FIG. 1 of <i>Petrovic</i> does not disclose “operating or transmitting said carriers... such that the frequency difference between the center frequency of the outer most of said carriers and the band edge of the mask ... is more than half the frequency difference between the center frequencies of each adjacent carrier,” if the “band edge” is interpreted under <i>Phillips</i>	44
ii.	<i>Petrovic</i> does not disclose “transmitting said carriers from the same location”.....	50
iii.	Dr. Petrovic testified that his paper does not relate to the ’891 Patent	52
B.	<i>Petrovic</i> does not anticipate dependent claims 2 and 4.	53
VI.	GROUND 2 – CLAIM 5 IS NOT OBVIOUS OVER <i>PETROVIC</i> IN VIEW OF <i>RAITH</i> AND <i>ALAKIJA</i>	56
A.	<i>Petrovic</i> in view of <i>Raith</i> and <i>Alakija</i> does not render claim 5 obvious.	56

VII. CONCLUSION.....	59
----------------------	----

TABLE OF AUTHORITIES

	<u>Page</u>
<u>CASES</u>	
<i>Advanced Display Sys. Inc. v. Kent State Univ.</i> , 212 F.3d 1272 (Fed. Cir. 2000)	39
<i>Ex parte Frye</i> , 94 USPQ 2d 1072 (BPAI 2010)	58
<i>Ex parte Papst-Motoren</i> , 1 USPQ2d 1655 (Bd. Pat. App. & Inter. 1986)	5
<i>In re Kahn</i> , 441 F.3d 977 (Fed. Cir. 2006)	58
<i>In re Morris</i> , 127 F.3d 1048, 44 USPQ2d 1023 (Fed. Cir. 1997)	5
<i>In re Royka</i> , 490 F.2d 981 (CCPA 1974)	56
<i>KSR Int'l Co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007)	58
<i>Net MoneyIN, Inc. v. VeriSign, Inc.</i> , 545 F.3d 1359 (Fed. Cir. 2008).....	39
<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005)	passim
<i>Pitney Bowes, Inc. v. Hewlett-Packard Co.</i> , 182 F.3d 1298 (Fed. Cir. 1999).....	6
<i>Power Integrations, Inc. v. Michelle K. Lee, Director, USPTO</i> , Case 2014-1123 (Fed. Cir. Decided August 12, 2015).....	6
<i>Vitronics Corp. v. Conceptronic</i> , 90 F.3d 1576 (Fed. Cir. 1996).....	5
<i>Xerox Corp. v. 3Com Corp.</i> , 458 F.3d 1310 (Fed. Cir. 2006).....	39

OTHER AUTHORITIES

35 United States Code § 102.....	1
35 United States Code § 103.....	1, 56
37 C.F.R. § 42.100	1
37 C.F.R. § 42.107	2, 4
Manual of Patent Examining Procedure § 2111.01	5
Manual of Patent Examining Procedure § 2558	4

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.