

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TALARI NETWORKS, INC.,
Petitioner,

v.

FATPIPE NETWORKS INDIA LIMITED,
Patent Owner.

Case IPR2016-00977
Patent 7,406,048 B2

Before STACEY G. WHITE, MICHELLE N. WORMMEESTER, and
CHRISTA P. ZADO, *Administrative Patent Judges*.

WHITE, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

A. Background

Talari Networks, Inc. (“Petitioner”) filed a Petition (Paper 1, “Pet.”) seeking to institute an *inter partes* review of claims 1–24 of U.S. Patent No. 7,046,048 (Ex. 1003, “the ’048 patent”) pursuant to 35 U.S.C. §§ 311–319. FatPipe Networks India Limited. (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). Based on our review of these submissions, we instituted *inter partes* review of claims 1–24 on the following specific grounds:

Reference(s)	Basis	Claims Instituted
Karol ¹	§ 102	1, 3, 4, 6, 7, 9, 10, 12, 13, 15, 16, 18, 19, 21, 22, and 24
Karol	§ 103	1–24
Karol and Stallings ²	§ 103	1–5, 7–11, 13–17, and 19–23

Paper 7 (“Dec.”), 22. Patent Owner filed a Patent Owner’s Response (Paper 22, “PO Resp.”), and Petitioner filed a Reply (Paper 26, “Reply”). An oral hearing was held on August 14, 2017. Paper 31 (“Tr.”).

We have jurisdiction under 35 U.S.C. § 6. This Final Written Decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons discussed below, Petitioner has demonstrated by a preponderance of the evidence that claims 1–24 of the ’048 patent are unpatentable.

¹ U.S. Patent No. 6,628,617 B1 (“Karol,” Ex. 1006).

² William Stallings, *Data and Computer Communications*, Prentice-Hall, 5th Ed, 1997, ISBN-81-203-1240-6 (“Stallings,” Ex. 1011).

B. Related Proceedings

The parties inform us that *FatPipe, Inc. v. Talari Networks, Inc.*, No. 5:16-CV-54-BO (E.D.N.C.) and *FatPipe, Inc. v. Viptela, Inc.*, No. DED-1-16-cv-00182 (D. Del.), may be impacted by this proceeding. Pet. 1, Paper 30, 1–2. In addition, Petitioner has a pending petition for *inter partes* review of a related patent, U.S. Patent No. 6,775,235 B2 (“the ’235 patent”) (IPR2016-00976). Pet. 2. Viptela, Inc. and Cisco Systems, Inc. also have filed petitions seeking *inter partes* review of various claims of the ’048 and ’235 patents. Paper 30, 3.

C. The ’048 Patent

The ’048 patent describes a system and method for communicating using two or more disparate networks in parallel. Ex. 1003, Abstract. For example, an embodiment of this system could be composed of a virtual private network (“VPN”) in parallel with a frame relay network. *Id.* at 1:19–24. These parallel networks back each other up in case of failure and when both networks are operational their loads are balanced between the parallel networks. *Id.* at Abstract. An embodiment of this system is depicted in Figure 10, which is shown below.

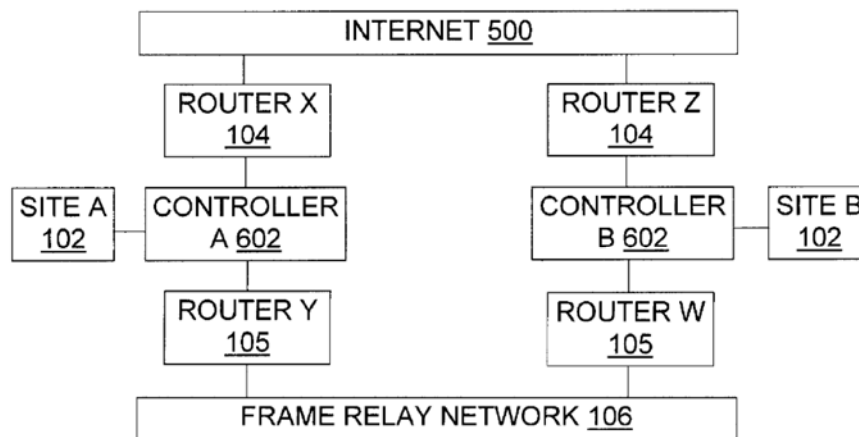


Fig. 10

Figure 10 depicts an example of the network topology described in the '048 patent. *Id.* at 8:22–23. Two sites 102 transmit and/or receive data from one another. *Id.* at 2:39–41. These sites are connected by two disparate networks, Internet 500 and frame relay network 106. *Id.* at 8:23–25. Each location has frame relay router 105 and Internet router 104. *Id.* at 8:25–26. “Access to the disparate networks at site A and site B is through an inventive controller 602 at each site.” *Id.* at 6:30–31. Controller 602 “allows load-balancing, redundancy, or other criteria to be used dynamically, on a granularity as fine as packet-by-packet, to direct packets to an Internet router and/or frame relay/point-to-point router according to the criteria.” *Id.* at 9:6–9.

Figure 7 of the '048 patent is reproduced below.

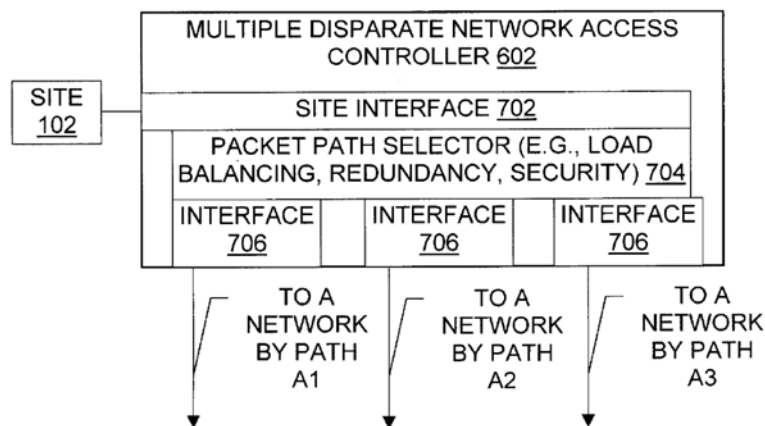


Fig. 7

Figure 7 depicts controller 602. *Id.* at 10:48–49. Controller 602 is connected to site 102 via site interface 702. *Id.* at 10:48–51. Packet path selector 704 is hardware or software that determines which path a given packet is to travel. *Id.* at 10:54–58. The criteria used to determine which path a packet travels may be based on concerns such as redundancy, load-balancing, or security. *Id.* at 10:61–11:50. Controller 602 also has two

or more network interfaces 706 (at least one per each network for which controller 602 controls access). *Id.* at 11:51–53.

D. Illustrative Claims

As noted above, we instituted review of claims 1–24 of the '048 patent, of which claims 1, 7, 13, and 19 are independent. Claims 1 and 7 are illustrative of the challenged claims and are reproduced below:

1. A controller which controls access to multiple independent disparate networks in a parallel network configuration, the disparate networks comprising at least one private network and at least one network based on the Internet, the controller comprising:
 - a site interface connecting the controller to a site;
 - at least two network interfaces which send packets toward the disparate networks; and
 - a packet path selector which selects between network interfaces, using at least two known location address ranges which are respectively associated with disparate networks, according to at least: a destination of the packet, an optional presence of alternate paths to that destination, and at least one specified criterion for selecting between alternate paths when such alternate paths are present;wherein the controller receives a packet through the site interface and sends the packet through the network interface that was selected by the packet path selector.

7. A method for combining connections for access to disparate parallel networks, the method comprising the steps of:
 - receiving at a controller a packet which has a first site IP address as source address and a second site IP address as destination address;
 - selecting, within the controller on a per-packet basis, between a path through an Internet-based network and a path through a private network that is not Internet-based; and
 - forwarding the packet along the selected path toward the second site.

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