

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC.,
Petitioner,

v.

FATPIPE NETWORKS PRIVATE LTD.,
Patent Owner.

Case IPR2017-01845
Patent 6,775,235 B2

Before STACEY G. WHITE, MICHELLE N. WORMMEESTER, and
JOHN F. HORVATH, *Administrative Patent Judges*.

HORVATH, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

A. Background

Cisco Systems, Inc. (“Cisco,” “Petitioner”) filed a Petition (Paper 1, “Pet.”) requesting *inter partes* review of claims 1, 4–15, and 19–24 (“the challenged claims”) of U.S. Patent No. 6,775,235 B2 (Ex. 1001, “the ’235 patent”). FatPipe Networks Private Ltd. (“Patent Owner”)¹ filed a Preliminary Response (Paper 9, “Prelim. Resp.”). Cisco Systems filed a Reply to the Preliminary Response (Paper 11, “Reply”), and FatPipe Networks filed a sur-reply (Paper 12, “Sur-Reply”).

Upon consideration of the Petition, Preliminary Response, Reply, and Sur-Reply, we are persuaded, under 35 U.S.C. § 314(a), that Petitioner has demonstrated a reasonable likelihood that it would prevail in showing the unpatentability of the challenged claims of the ’235 patent. Accordingly, we institute an *inter partes* review of those claims.

B. Related Matters

Petitioner identifies the following as matters that could affect, or be affected by, a decision in this proceeding: *FatPipe, Inc. v. Viptela, Inc.*, Case No. 1:16-cv-00182 (D. Del.); *FatPipe, Inc. v. Talari Networks, Inc.*, Case No. 5:16-cv-00054 (E.D.N.C.); *FatPipe, Inc. v. Talari Networks, Inc.*, Case No. 6:16-cv-00458 (E.D. Tex.); *Talari Networks, Inc. v. FatPipe Networks Private Ltd.*, Case IPR2016-00976 (PTAB); *Viptela, Inc. v. FatPipe Networks Private Ltd.*, Case IPR2017-00684 (PTAB); *Viptela, Inc. v. FatPipe Networks Private Ltd.*, Case IPR2017-01125 (PTAB). Pet. 7.

¹ FatPipe Networks Private Ltd. identifies FatPipe, Inc. as a real party-in-interest. Paper 3, 2.

Patent Owner identifies the same matters and, in addition, identifies the following matters that are directed toward related U.S. Patent No. 7,406,048: *Talari Networks, Inc. v. FatPipe Networks Private Ltd.*, Case IPR2016-00977 (PTAB); *Viptela, Inc. v. FatPipe Networks Private Ltd.*, Case IPR2017-00680 (PTAB); *Viptela, Inc. v. FatPipe Networks Private Ltd.*, Case IPR2017-01126 (PTAB); *Cisco Systems, Inc. v. FatPipe Networks Private Ltd.*, Case IPR2017-01846 (PTAB). Paper 3, 2–3.

*C. Evidence Relied Upon*²

Reference		Date	Exhibit
The '235 Patent (“AAPA”) ³	US 6,775,235 B2	pre-Dec. 29, 2000	Ex. 1001
Guerin	US 6,243,754	Jan. 8, 1999	Ex. 1006
Monachello	US 6,748,439	Aug. 6, 1999	Ex. 1007
Vijay Bollapragada et al., Inside Cisco IOS Software Architecture (2000) (“Bollapragada”)		July 28, 2000 ⁴	Ex. 1008
Shaffer	US 6,122,743	Mar. 31, 1998	Ex. 1012
Dennis Fowler, Virtual Private Networks (1999) (“Fowler”)		May 7, 1999 ⁵	Ex. 1014

² Petitioner also relies on the Declaration of Narasimha Reddy, Ph.D. Ex. 1005.

³ Petitioner identifies Figures 1–5 of the '235 patent, all of which are labelled “PRIOR ART,” as applicant admitted prior art (“AAPA”). See Pet. 21; Ex. 1001, 5:8–28, Figs. 1–5.

⁴ See Ex. 1009 ¶ 2 (declaration of David Bader, testifying the copyright registration for Bollapragada identifies its publication date as July 28, 2000).

⁵ See Ex. 1009 ¶ 3 (declaration of David Bader, testifying the copyright registration for Fowler identifies its publication date as May 7, 1999).

Reference		Date	Exhibit
Smith	US 7,296,087 B1	Mar. 17, 2000	Ex. 1015

D. The Asserted Grounds of Unpatentability

Reference(s)	Basis	Claim(s) Challenged
Guerin and AAPA	§ 103(a)	5, 6, 8, 10, 14, and 22
Guerin, AAPA, and Monachello	§ 103(a)	7
Guerin, AAPA, and Bollapragada	§ 103(a)	4, 9, 19, and 24
Guerin, AAPA, Bollapragada, and Smith	§ 103(a)	11–13 and 23
Guerin	§ 103(a)	20
Guerin, AAPA, and Fowler	§ 103(a)	21
Guerin, AAPA, Bollapragada, and Shaffer	§ 103(a)	1 and 15

II. ANALYSIS

A. The '235 Patent

The '235 patent describes a communications system and method that uses two or more disparate, parallel, networks. Ex. 1001, Abstract. For example, the communications system can use an Internet-based virtual private network (“VPN”) in parallel with a frame relay network to provide communications. *Id.* at 1:19–24. Providing communications over disparate, parallel, networks allows the system to provide load-balancing, increased security, and disaster recovery in the event one of the parallel networks fails. *Id.* An embodiment of the system is depicted in Figure 10, which is reproduced below.

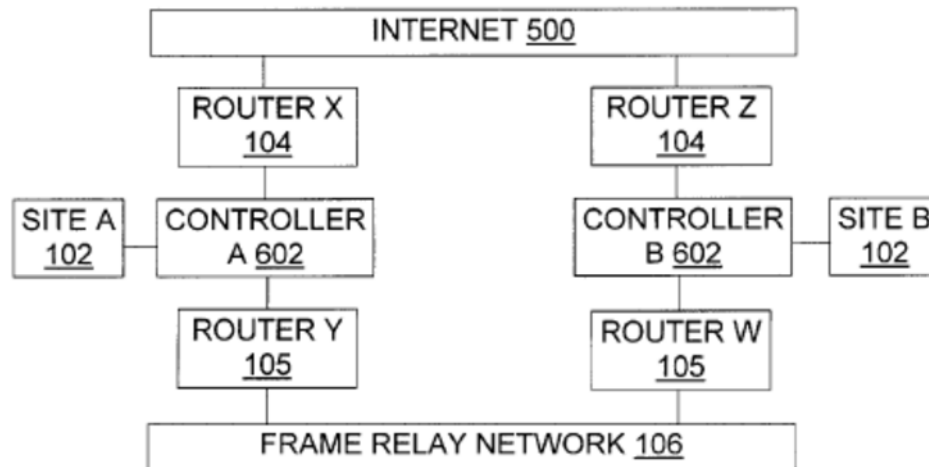


Fig. 10

Figure 10 is a diagram illustrating an exemplary topology for the network described in the '235 patent. *Id.* at 5:52–58. Two sites 102 A/B transmit data to and/or receive data from one another. *Id.* at 2:38–40, Fig. 10. Sites 102 A/B are connected by two disparate, parallel, networks, for example, Internet 500 via routers 104 X/Z, and frame relay network 106 via routers 105 Y/W. *Id.* at 8:30–33. “Access to the disparate networks at site A and site B is through an inventive controller 602 at each site.” *Id.* at 6:34–36. 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 9:12–17. Although controllers 602 and routers 104 X/Z and 105 Y/W are shown as separate devices in Figure 10, “the software and/or hardware implementing these devices . . . may be housed in a single device and/or reside on a single machine.” *Id.* at 8:40–45.

A diagrammatic illustration of controller 602 is shown in Figure 7 of the '235 patent, which is reproduced below.

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