Trials@uspto.gov
571-272-7822

Paper 73
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JUNIPER NETWORKS, INC., RUCKUS WIRELESS, INC.,
BROCADE COMMUNICATION SYSTEMS, INC., and NETGEAR, INC.,
Petitioner,

v.

CHRIMAR SYSTEMS, INC.,
Patent Owner.

Case IPR2016-01399[1]
Patent 8,902,760 B2

Before KARL D. EASTHOM, GREGG I. ANDERSON, and
ROBERT J. WEINSCHENK, *Administrative Patent Judges*.

WEINSCHENK, *Administrative Patent Judge*.

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

[1] Ruckus Wireless, Inc., Brocade Communication Systems, Inc., and Netgear, Inc. filed a petition in IPR2017-00719 (now terminated), and were joined to this proceeding.

I. INTRODUCTION

Juniper Networks, Inc. filed a Petition (Paper 1, "Pet.") requesting an *inter partes* review of claims 1, 31, 37, 59, 69, 72, 73, 106, 112, 134, 142, and 145 of U.S. Patent No. 8,902,760 B2 (Ex. 1001, "the '760 patent"). Chrimar Systems, Inc. ("Patent Owner") filed a Preliminary Response (Paper 6, "Prelim. Resp.") to the Petition. On January 4, 2017, we instituted an *inter partes* review of claims 1, 31, 37, 59, 69, 72, 73, 106, 112, 134, 142, and 145 ("the challenged claims") of the '760 patent on the following grounds:

Claims	**Statutory Basis**	**Applied References**
1, 31, 37, 59, 69, 72, 73, 106, 112, 134, 142, and 145	35 U.S.C. § 103(a)[2]	Hunter et al., PCT Publication No. WO 96/23377 (published Aug. 1, 1996) (Ex. 1003, "Hunter"); and Bulan et al., U.S. Patent No. 5,089,927 (issued Feb. 18, 1992) (Ex. 1004, "Bulan")
1, 31, 37, 59, 69, 72, 73, 106, 112, 134, 142, and 145	35 U.S.C. § 103(a)	Bloch et al., U.S. Patent No. 4,173,714 (issued Nov. 6, 1979) (Ex. 1005, "Bloch"); The Institute of Electrical and Electronics Engineers, Inc., IEEE Standard 802.3-1993 (1993) (Ex. 1006, "IEEE 802.3-1993"); and The Institute of Electrical and Electronics Engineers, Inc., IEEE Standard 802.3u-1995 (1995) (Exs. 1007–1008, "IEEE 802.3-1995")

[2] The Leahy-Smith America Invents Act ("AIA"), Pub. L. No. 112-29, which was enacted on September 16, 2011, made amendments to 35 U.S.C. §§ 102, 103. AIA § 3(b), (c). Those amendments became effective eighteen months later on March 16, 2013. *Id.* at § 3(n). Because the application from which the '760 patent issued was filed before March 16, 2013, any citations herein to 35 U.S.C. §§ 102, 103 are to their pre-AIA versions.

Claims	Statutory Basis	Applied References
1, 31, 37, 59, 69, 72, 73, 106, 112, 134, 142, and 145	35 U.S.C. § 103(a)	Bloch; IEEE 802.3-1993; IEEE 802.3-1995; and Huizinga et al., U.S. Patent No. 4,046,972 (issued Sept. 6, 1977) (Ex. 1009, "Huizinga")

Paper 8 ("Dec. on Inst."), 20–21.

After institution, Ruckus Wireless, Inc., Brocade Communication Systems, Inc., and Netgear, Inc. filed a petition in IPR2017-00719 requesting an *inter partes* review of the challenged claims of the '760 patent and filed a motion requesting joinder to this case. Paper 25, 2. On March 16, 2017, we joined Ruckus Wireless, Inc., Brocade Communication Systems, Inc., and Netgear, Inc. to this case and terminated IPR2017-00719. *Id.* at 5–6. In this Decision, we refer to Juniper Networks, Inc., Ruckus Wireless, Inc., Brocade Communication Systems, Inc., and Netgear, Inc. collectively as Petitioner. Also, after institution, Patent Owner filed a Response (Paper 26, "PO Resp.") to the Petition, and Petitioner filed a Reply (Paper 33, "Pet. Reply") to the Response. An oral hearing was held on August 31, 2017, and a transcript of the hearing is included in the record. Paper 63 ("Tr.").

On September 18, 2017, an *ex parte* reexamination certificate issued for the '760 patent. Ex. 2056. The *ex parte* reexamination certificate amends independent claim 73 and dependent claim 145. *Id.* at 1:18–19, 1:23–2:9. The *ex parte* reexamination certificate also amends dependent claims 106, 112, 134, and 142, by virtue of their dependency from amended claim 73. *Id.* at 1:20–22. We instituted an *inter partes* review of claims 73, 106, 112, 134, 142, and 145, as originally issued, and, thus, we address the patentability of original claims 73, 106, 112, 134, 142, and 145 in this

Decision.[3] *See infra* Sections II.C, II.D; 35 U.S.C. § 318(a) ("the Patent Trial and Appeal Board shall issue a final written decision with respect to the patentability of any patent claim challenged by the petitioner"). Petitioner, however, does not challenge the patentability of claims 73, 106, 112, 134, 142, and 145, as amended by the *ex parte* reexamination certificate, in the Petition. *See* Pet. 7. Therefore, we did not institute an *inter partes* review of amended claims 73, 106, 112, 134, 142, and 145, and we do not address the patentability of amended claims 73, 106, 112, 134, 142, and 145 in this Decision. *See infra* Section II.E; 35 U.S.C. § 318(a).

We issue this Final Written Decision pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons set forth below, Petitioner has shown by a preponderance of the evidence that claims 1, 31, 37, 59, 69, and 72, and original claims 73, 106, 112, 134, 142, and 145 of the '760 patent are unpatentable.

A. *Related Proceedings*

The parties indicate that the '760 patent is the subject of several cases in the United States District Court for the Eastern District of Michigan, the United States District Court for the Eastern District of Texas, and the United States District Court for the Northern District of California. Pet. 1; Paper 5,

[3] Patent Owner's amendment of original claims 73, 106, 112, 134, 142, and 145 in the *ex parte* reexamination also may be considered a concession of unpatentability, and, thus, a request for adverse judgment as to original claims 73, 106, 112, 134, 142, and 145. *See* 37 C.F.R. § 42.73(b)(3); *Bloom Eng'g Co. v. N. Am. Mfg. Co.*, 129 F.3d 1247, 1249 (Fed. Cir. 1997) ("the making of substantive changes in the claims is treated as an irrebuttable presumption that the original claims were materially flawed").

2–3; Ex. 1012. The parties also indicate that the following petitions for *inter partes* review are related to this case:

Case No.	**Involved U.S. Patent No.**
IPR2016-00569	U.S. Patent No. 8,942,107
IPR2016-00573	U.S. Patent No. 9,019,838
IPR2016-00574	U.S. Patent No. 8,902,760
IPR2016-00983	U.S. Patent No. 8,155,012
IPR2016-01151	U.S. Patent No. 9,019,838
IPR2016-01389	U.S. Patent No. 8,155,012
IPR2016-01391	U.S. Patent No. 8,942,107
IPR2016-01397	U.S. Patent No. 9,019,838
IPR2016-01425	U.S. Patent No. 8,155,012
IPR2016-01426	U.S. Patent No. 9,019,838

Pet. 1; Paper 5, 3.

B. *The '760 Patent*

The '760 patent relates to a system for managing, tracking, and identifying remotely located electronic equipment. Ex. 1001, 1:27–30. According to the '760 patent, one of the difficulties in managing a computerized office environment is keeping track of a company's electronic assets. *Id.* at 1:32–57. Previous systems for tracking electronic assets suffered from several deficiencies. *Id.* at 1:62–65. For example, previous systems could not determine the connection status or physical location of an asset and could only track assets that were powered-up. *Id.* at 1:65–2:2.

To address these deficiencies, the '760 patent describes a system for tracking an electronic asset. *Id.* at 2:3–6, 3:23–27. In one embodiment described in the '760 patent, the system includes a central module and a remote module. *Id.* at 3:27–30. The remote module attaches to the electronic asset and transmits a low frequency signal. *Id.* A receiver in the central module monitors the signal transmitted by the remote module and

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