

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ERICSSON INC.
Petitioner,

v.

KONINKLIJKE KPN N.V.
Patent Owner.

Case No. IPR2023-00524
Patent 9,372,098

**PETITIONER'S REPLY TO PATENT OWNER'S AUTHORIZED BRIEF
ADDRESSING PETITIONER'S PROPOSED CLAIM CONSTRUCTIONS
IN THE PARALLEL LITIGATION**

As authorized in a July 10, 2023 email from the Board, Petitioner files this reply to Patent Owner's Authorized Brief Addressing Petitioner's Proposed Claim Constructions in the Parallel Litigation (Paper 8 ("Brief")). In its Brief, Patent Owner ("PO") attempts to backtrack on statements it made in PO's Preliminary Response (Paper 6, "POPR") to argue for a broader construction of "non-signalling application data." Regardless, the prior art discloses "non-signalling application data" under both PO's and Petitioner's proposed constructions.

I. PO BACKTRACKS ON ITS POPR ARGUMENTS.

In its POPR, PO argued that "non-signalling data" would be understood to be "data that is not specifically concerned with the establishment and control of connections, and with management, in a telecommunications network." POPR, 6. PO further explained that during prosecution of the '098 Patent, "Patent Owner argued that information about a device (e.g., International Mobile Security Identity) and about a signal (e.g., Temporary Logical Link Identity) did *not* constitute 'non-signalling application data,'" thereby excluding such information from its interpretation of "non-signalling application data." *Id.*, 15 (emphasis in original, footnote omitted; citing EX2001, ¶ 64). In the parallel litigation, Petitioner proposes a construction consistent with that position. EX2023, 15. Petitioner's remaining proposed construction is supported by other statements made by PO during the '098 Patent prosecution. *See* EX1002, 222.

In Paper 8, however, PO attempts to claw back its narrowing construction, now suggesting that data “abouts signals and devices” *can* be “non-signalling” data. Brief, 3. Further, PO attacks Petitioner’s proper reliance on PO’s narrowing POPR arguments for Petitioner’s proposed claim construction. *Id.*, 2-3; *see also* IPR2018-00082, *Western Digital Corp. v. SPEX Techs., Inc.*, Paper 11, 12-13 (PTAB Apr. 25, 2018) (allowing petitioner to adopt patent owner’s claim construction positions for purposes of the petition). PO’s backtracking in Paper 8 is inconsistent with the POPR and undermines PO’s attack on *Krco*.

II. KRCO’S “SECONDARY DATA” IS “NON-SIGNALLING APPLICATION DATA” UNDER PO’S DISTRICT COURT CONSTRUCTION.

Krco’s secondary data simply notifies a service provider of a sensor’s existence; it does not, however, establish or manage a connection for a sensor or any other device. EX1009, 1:43-53, 4:3-9, 4:46-47; Petition, 36. As argued in the Petition, *Krco* does not describe establishing a complete circuit-switched or packet-switched connection at all. Petition, 46-49. Accordingly, *Krco* does not disclose using secondary data to establish or manage any connection. PO’s only argument for a telecommunications connection actually existing in *Krco* relies on *Krco*’s description of sensors communicating “via a UE to the rest of the world.” *See* POPR, 58-59 (citing EX1009, 1:53-58, 3:64-67). Without conceding that this disclosure teaches or suggests establishing a network connection, any such connection would

be between the *UE* (which forwards the sensor data) and the network. The *sensor's* information (*i.e.*, the secondary data) is irrelevant to establishing or managing a telecommunication connection because the sensor never communicates directly with the network. Thus, by ignoring PO's narrowing statements excluding information about a device from the construction of "non-signalling application data," PO undermines its own POPR arguments attacking *Krco's* secondary data and reveals its improper shifting-sands approach to claim construction in this proceeding.

III. THE COMBINATION'S M2M DATA IS "NON-SIGNALLING APPLICATION DATA"

Even if PO is held to its narrowing statements, Petitioner's challenge under the *Krco-Benaouda* combination remains valid. *Benaouda* discloses transferring data from an M2M device (*e.g.*, meter reading data), to an M2M application. EX1010, [0013], [0025]-[0026]; Petition, 39-40. This M2M data is not related to the establishment, control, management, or maintenance of connections as proposed by PO (EX 2024, 4) and Petitioner (EX2023, 15). Instead, this data simply reflects the measurements taken or data gathered by an M2M device. And this data does not identify or describe a device or a signal as proposed by PO (POPR, 15) and Petitioner (EX2023, 15). Accordingly, the *Krco-Benaouda* combination is valid under the proposed district court constructions.

Respectfully submitted,

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CERTIFICATE OF SERVICE

In accordance with 37 C.F.R. § 42.6(e), the undersigned certifies that on the 24th day of July 2023, a complete and entire copy of this PETITIONER'S REPLY TO PATENT OWNER'S AUTHORIZED BRIEF ADDRESSING PETITIONER'S PROPOSED CLAIM CONSTRUCTIONS IN THE PARALLEL LITIGATION was served on Patent Owner via electronic mail at the following addresses:

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