

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC.,
Petitioner,

v.

ZILKR CLOUD TECHNOLOGIES, LLC,
Patent Owner.

Case IPR2023-00822
Patent 9,883,047

PATENT OWNER'S SUR REPLY

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EXHIBIT LIST

Ex. No.	Description
2001	Withdrawn
2002	Claim Construction Order, <i>Zilkr v Cisco Systems, Inc.</i> , No. 2:22-cv-00166-JRG-RSP, Dkt. No. 121 (E.D. Tex. Aug. 3, 2023)
2003	Second Amended Docket Control Order, <i>Zilkr v Cisco Systems, Inc.</i> , No. 2:22-cv-00166-JRG-RSP, Dkt. No. 146 (E.D. Tex. Aug. 30, 2023)
2004	Declaration of Dr. Vijay Madisetti
2005	Deposition of Dr. Henry Houh (February 22, 2024)

CLAIM LISTING

Independent Claim 1	
1.0	A method of provisioning a service for use with a group plan, the method comprising:
1.1	receiving, by a unified services platform system, a subscription request for a service for a group plan,
1.2	wherein the group plan comprises a plurality of telephone numbers, wherein each telephone number of the plurality of telephone numbers is associated with a subscriber, and
1.3	wherein the service is provided by a third party application service provider system;
1.4	sending, by the unified services platform system, an activation request for the group plan to the third party application service provider system;
1.5	receiving an activation response from the third party application service provider system;
1.6	associating the service with each telephone number of the plurality of telephone numbers;
1.7	providing access to the service for each telephone number based on the associating;
1.8	receiving, by the unified services platform system, a subscription request for a second service from a subscriber associated with a first telephone number of the plurality of telephone numbers,

1.9	wherein the second service is provided by a second third party application service provider system;
1.10	sending, by the unified services platform system, a second activation request for the service to the second third party application service provider system;
1.11	receiving a second activation response from the second third party application service provider system;
1.12	associating the second service with the first telephone number; and
1.13	providing access to the second service for the first telephone number based on the associating.

Dependent Claim 4	
4.0	The method of claim 1, wherein an API of the third party application service provider system is incompatible with an API of the network provider system.

Dependent Claim 5	
5.0	The method of claim 4, wherein the API of the third party application service provider system is integrated with the unified services platform system,

5.1	and wherein API of the network provider system is integrated with the unified services platform system,
5.2	and wherein the third party application communicates with the network provider system through the unified services platform system.

Dependent Claim 6	
6.0	The method of claim 1, further comprising: receiving, by the unified services platform system, a second subscription request for a second service for the group plan, wherein the second service is provided by a second third party application service provider system,
6.1	wherein an API of the third party application service provider system is incompatible with an API of the second third party application service provider system;
6.2	sending, by the unified services platform system, a second activation request for the group plan to the third party application service provider system,
6.3	receiving a second activation response from the third party application service provider system;
6.4	associating the second service with each telephone number of the plurality of telephone numbers; and
6.5	providing access to the second service for each telephone number based on the associating.

Dependent Claim 7	
7.0	The method of claim 1, further comprising: invoking the service in response to a triggering event associated with a first telephone number of the plurality of telephone numbers.

I. INTRODUCTION

Cisco's Reply (Paper 19) fails to persuasively refute any of the points made in Zilkr's Patent Owner Response ("PO Resp.," Paper 16), explaining why Cisco fails to meet its burden of proving its challenges to claims 1 and 4-7 of the '047 Patent.

II. CLAIM CONSTRUCTION

A. "*subscription request for a service for a group plan*"

Contrary to the suggestion in Cisco's Reply, Zilkr has not argued that the subscription request in claim 1 must list each member of a group, or that the request may not use a group identifier to identify the group. The request must, however, be interpreted at least as a request to subscribe each member of the group to the requested service. Cisco argues that Claim 1 refutes such an interpretation, but Cisco's arguments support Zilkr's position, which is entirely consistent with use of a group identifier to identify the plurality of telephone numbers for which the subscription is requested, as described in the '047 Patent.

Cisco argues that "[t]he 'request' is made at a 'group' level (e.g., '*request for a service for a group plan*')"

and that "[l]imitation [1.2] further identifies information included in a group plan—namely, a plurality of telephone numbers, each associated with a subscriber." Reply 6. The plurality of telephone numbers is not merely "information," but themselves comprise the group plan. Thus, based on

the plain language of the claim, a subscription request for a service *for a group plan*, is a request to subscribe the plurality of telephone numbers to a service. The claim does not limit the information that must be included in the request, which may be a group identifier.

Cisco's arguments about the '047 Patent specification also support Zilkr's position. *See* Reply 6-7. As noted, interpreting the claimed subscription request to include at least a request to subscribe each member of the group to the requested service is consistent with using a group identifier to identify the plurality of telephone numbers. And, as Cisco points out, "[t]he unified services platform may then 'generate the necessary configuration data *to activate the new service for each subscriber in the group plan.*'" Reply 7 (quoting Ex.1001, 31:30-32) (emphasis added). A request resulting in activating the new service for each subscriber in the group plan is a request to subscribe each member of the group to the requested service. A request resulting in activating the service for a single subscriber or no subscribers is not a subscription request for a service for a group plan.

Cisco's Reply argues the claim requires only to "add the service to a group plan and then permit each member of the group to use the service." Reply 7-8. It is unclear what Cisco means by "add[ing] the service to a group plan" without each telephone number in the group becoming a subscriber, as such a concept is not

consistent with the '047 Patent. Cisco seems to be reading the claimed “subscription request” not only contrary to its plain language, but also completely divorced from the context of the other limitations in the claim, such as limitations [1.6] and [1.7], which recite “associating the service with each telephone number of the plurality of telephone numbers” and “providing access to the service for each telephone number based on the associating.” Under Cisco’s reading, these limitations are met if the subscription request generally relates to a “group plan” and each member of the group happens to later gain access to the service. Cisco’s tortured reading is not consistent with the '047 Patent. *See, e.g.*, PO Resp. 12-13 (quoting Ex. 1001, 30:41-31:42).

In addition, as noted in Patent Owner’s Response, the group aspects claimed in limitations [1.1]-[1.2] and [1.4]-[1.7] contrast with limitations [1.8]-[1.13], in which a subscriber that is a part of the group is requesting a subscription for a service. A plain reading of the claim is that the first subscription request (in limitation [1.1]) is “for” the group plan, requiring at least that it is a request to subscribe each member of the group to the service, and the second subscription request (in limitation [1.8]) is merely a subscriber of the group requesting a subscription to a service for that subscriber. Ex. 2004, ¶ 55. Under Cisco’s interpretation, the “subscription request for a second service” in limitation [1.8] would also be “for a group plan” even though the claim only requires that the

second service be associated with the first telephone number. Such an interpretation does not give any weight to this difference in claim language, for no apparent reason.

Cisco also argues that Zilkr does not explain how the claim reflects the difference between a user being a “subscriber” of a service and a user being provided with “access to the service.” *See* Reply 8. The claim phrase “subscription request” means a request to make the telephone numbers that are part of the group subscribers, and “access to the service” cannot be interpreted consistent with the specification to mean access to a portion of the service, as such splitting of the service is not described in the ’047 Patent, a fact not disputed by Cisco in its Reply.

Cisco further argues that passages in the ’047 Patent about activating the requested service and associating it with each telephone number that is part of the group plan are described using permissive language, and thus describe only what may happen after a service is “added to the group plan.” Cisco ignores (1) that the claims recite activating and associating each telephone number with the service, making the use of permissive language irrelevant, and (2) that in the ’047 Patent description the service is “added to the group plan” (Cisco’s words) by subscribing each member of the group to the requested service, e.g., by following the steps in limitations [1.4]-[1.7] to send an activation request, receive an activation response,

associate the service with each telephone number of the plurality of telephone numbers, and provide access to the service for each telephone number based on the associating. There is no description in the '047 Patent of somehow adding a service to a group plan without subscribing each member of the group to the requested service, a concept created by Cisco merely to attempt to argue that Raleigh teaches limitations of the challenged claims.

Interestingly, Cisco's proposed construction of a "subscription request for a service for a group plan" is "a request to subscribe a group to a service," which seems to support Zilkr's position, as subscribing a group to a service subscribes each member of the group to the service. To the extent Cisco disagrees, its proposed construction is unhelpful because it does not address the point disputed by the parties. Zilkr does not disagree that a subscription request may identify members in the group plan using a group plan identifier.

For the reasons given herein and in Zilkr's Patent Owner Response, the claimed "subscription request for a service for a group plan" should be interpreted to include a request to subscribe each member of the group to the requested service.

B. *"activation request," "activation response," "associating the service," and "providing access to the service" ([1.4]-[1.7])*

Cisco argues that Zilkr does not support its argument that the "activation request" in limitation [1.4] is a request to activate a subscription for the service for

each member of the group. What Cisco ignores and never refutes, however, is that limitations [1.4]-[1.7] can only be interpreted as the steps taken to fulfill the subscription request of limitation [1.1]. This is based on any plain reading of the claim as a whole and on the passages of the '047 Patent Zilkr noted in its Response. As such, the language of limitations [1.4]-[1.7] informs the meaning of the subscription request and vice versa.

In that vein, the “activation request for the group plan” recited in limitation [1.4] is a shorthand way of referring to the subscription requested for the group (i.e., each member of the group) in limitation [1.1]. No other interpretation makes sense in the context of the '047 Patent. Cisco's arguments rely on reading each limitation of claim 1 completely isolated from the surrounding limitations and the specification. That is not how claims are construed.

Cisco attempts to support its argument with the contention that “[t]he '047 patent describes activating more than just subscriptions and services; it also describes activating accounts with a service provider,” citing Ex.1001, 30:1-3. Reply 10. But the paragraphs preceding and following lines 1-3 of column 30 of the '047 Patent show that creation of an account is activation of the service as used in that passage.

In the paragraphs of column 29, lines 40-67, which describe the “activating” referred to at column 30, line 2, an account is created to activate the service. For

example, “activation data may be sent to the third party provider so that an account is created for the customer by the third party provider to use the SMS messaging application.” Ex. 1001, 29:40-42. The same paragraph also refers to “using an account or service,” indicating the terms are used synonymously. *Id.*, 29:48-49. The next paragraph describes how “the third party provider may consume and translate the activation data into their own proprietary API to create an account and properly accept SMS messages from the primary provider for the user's telephone number,” again showing that creation of the account is the same as activating the service for each telephone number. *Id.*, 29:57-60.

The description following column 30, lines 1-3, also refutes Cisco’s suggestion that the “activation request” in limitation [1.4] may be for something other than the service requested to be subscribed to in limitation [1.1]. Indeed, in the very next sentence, “activating an application” is directly equated with “activating an account” as used in the previous sentence: “***after activating a SMS messaging application***, when a SMS message is sent to the customer's telephone number, the SMS message may be automatically routed to the third-party provider and then to the customer's device which is associated with that telephone number.” Ex. 1001, 30:4-8 (emphasis added). The paragraph gives several examples of how to use a service after activating the service or application. *See id.*, 30:8-25. Given the introductory sentence indicating that the example embodiments would discuss

“techniques for utilizing a third-party service after activating an account with the third-party provider,” *id.*, 30:1-2, it is evident that “activating an account” is the same as activating a service or application.

Cisco’s request that an “activation request for the group plan” be construed “to include a request to activate a service or an account for the group” (Reply 11) is incorrect at least because it wrongly suggests an account can be activated separate from a service and fails to acknowledge that the service being activated is the one that is the subject of the subscription request in limitation [1.1]. And again, Cisco does not explain why the limitations in [1.4]-[1.7] should not be construed as relating back to and fulfilling the subscription request received in limitation [1.1].

C. “*the service*” ([1.10])

Cisco’s Reply refutes a straw man argument that Zilkr never made. Zilkr does not propose that “the service” in limitation [1.10] refers to the same service recited in limitation [1.1]. Zilkr agrees with Cisco that “the service” in limitation [1.10] is the “second service” introduced in limitation [1.8]. Page 30 of Zilkr’s Patent Owner Response cited by Cisco explained that the “second activation request” in limitation [1.10] “is not met by an activation related to selecting a service provider” because it explicitly recites being an activation request “for the service.” Limitation [1.10] makes explicit what is implicit in limitation [1.4], i.e., the activation request is for a service. In limitation [1.4], the activation request is

for the service that is the subject of the subscription request in limitation [1.1], while in limitation [1.10] the second activation request is for the second service that is the subject of the subscription request in limitation [1.8].

III. PETITIONER HAS FAILED TO SHOW THAT RALEIGH RENDERS OBVIOUS CLAIMS 1 AND 4-7

A proper construction of the terms used in claim 1 of the '047 Patent, as described above herein and in Zilkr's Patent Owner Response, is sufficient to dispose of Cisco's challenges in its Petition, for the reasons given in Zilkr's Response. Zilkr further responds to certain additional errors in arguments made in Cisco's Reply.

Cisco argues that "[t]he '047 patent specification plainly contemplates group members sharing access to a service, for example, by describing how service delivery and billing can occur at the group level," citing Ex.1001, 4:56-49,¹ 33:2-5, and 54:18-20. Reply 13-14. None of these passages refers to group members splitting a service. Billing a group or subscriber for the services used by the group, having rules for different services that may be accessed at different times by a subscriber, and providing a group with services are all consistent with and support

¹ Although it is unclear what passage Cisco specifically refers to with citation to lines "56-49," Zilkr has considered the sentence beginning at line 56 of column 4.

Zilkr's position that nowhere does the '047 Patent contemplate dividing services with another subscriber.

Cisco's Reply argues it need not have provided any motivation to modify Raleigh in any way since any part of Raleigh "can apply equally" to any other part. *See* Reply 14. Cisco's Petition never explains what aspects of Raleigh are being "combined" other than a conclusory statement that "it would have been obvious to a POSITA for the service plan selected by the user in FIG.36A to be for a master service account (*for a group plan*')." Pet. 29; *see* PO Resp. 18. Cisco's Reply does not show where in the Petition any other specific aspects of Raleigh are proposed to be combined, such as using the activation request and response of Figures 36A-36B for a service rather than a service provider as in Figures 35A-35B. Without any such explanation in the Petition, Cisco cannot now say that any feature described in Raleigh's 616 pages may be vaguely "combined" with any other aspect without any need to explain a motivation for doing so. Further, Cisco's partial quote from paragraph [1856] of Raleigh (*see* Reply 14) in context only indicates that "[t]he ***descriptions provided herein for notification messaging for FIGS. 29E to 29H*** can apply equally at least in part to aspects of service provider selection processes, service provider activation processes and/or service selection processes for FIGS. 34A, 34B, 35A, 35B, 36A and 36B." Raleigh ¶ 1856 (emphasis added).

Cisco further argues “PO fails to identify any meaningful distinction between Raleigh’s disclosure and the claimed process” with regard to the activation request and activation response of limitations [1.4] and [1.5]. Reply 17. The difference, however, is that Raleigh describes the process of selecting a provider and selecting a service as different, and Petitioner conflates the two. *See* PO Resp. 22-24. And Raleigh’s statement that the processes may be performed “in conjunction” does not itself indicate any alteration in the specific processes described for performing each of those separate goals. To the extent Cisco attempts in its Reply to explain specifically how it proposes for Raleigh’s service provider selection and service selection to be performed in such a way that an “activation request” and “activation response” are provided for selecting a service, these are new arguments presented too late in the proceeding.

Finally, as to limitation 5.2, Zilkr’s Patent Owner Response explained that, as one example of a failure to articulate a motivation to combine or modify, Petitioner does not articulate any reasoning for why one of ordinary skill in the art would modify Raleigh to meet limitation [5.2], “wherein the third party application communicates with the network provider system through the unified services platform system.” The Petition identifies the ASPI in Figure 1AH of Raleigh to be “the unified services platform system” recited in element [5.2]. Pet. 56. But for element 1.1, which provides the antecedent basis for the “unified services

platform,” the Petition identified the “third party service partner system.” Pet. 23.

In attempting to reconcile this difference, the Petition merely states that “[i]t would have been obvious to a POSITA to implement the ASPI engine 2904 with the third-party service partner (“*unified services platform system*”) to operate as the intermediary between the application service providers and the carrier (“*network provider system*”). Ex.1003, ¶151.” As with the limitations of claim 1 discussed above, vague suggested modifications and conclusory statements such as “it would have been obvious” do not provide Patent Owner with sufficient notice to respond and fail to meet Petitioner’s burden of proving obviousness by a preponderance of the evidence. The Federal Circuit has explained that “[t]he need for specificity pervades [our] authority on the PTAB’s findings on the motivation to combine,” which applies also to Petitioners in carrying their burden of proof. *In re Nuvasive*, 842 F.3d 1376, 1381-82 (Fed. Cir. 2016). Dr. Houh’s testimony repeating such conclusory statements is entitled to little or no weight. *Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 9, at 15 (PTAB Aug. 24, 2022) (precedential) (holding declaration is entitled to little or no weight when it contains an exact restatement of the petition’s conclusory arguments without any additional supporting evidence or reasoning). Cisco’s arguments in the Reply still fail to provide a specific motivation for why the third-party service partner of Raleigh would have implemented the ASPI engine.

IV. CONCLUSION

For the reasons stated above and in Zilkr's Patent Owner Response, Zilkr respectfully submits that Petitioner has not met its burden to show unpatentability.

Dated: August 6, 2024

Respectfully submitted,

/Jeffrey Stephens/

Jeffrey Stephens (Reg. No. 56,254)
jstephens@carterarnett.com
Carter Arnett Bennett & Perez PLLC
8150 N. Central Expressway
Suite 500
Dallas, TX 75206
Counsel for Patent Owner

CERTIFICATE OF WORD COUNT UNDER 37 C.F.R. § 42.24(b)(1)

I, the undersigned, do hereby certify that the foregoing Patent Owner Sur Reply, including footnotes, contains no more than 5,600 words, as measured by the Word Count function of Microsoft Word as specified by 37 C.F.R. §§ 42.24(c)(4).

/Jeffrey Stephens/

Jeffrey Stephens (Reg. No. 56,254)
jstephens@carterarnett.com
Carter Arnett Bennett & Perez PLLC
8150 N. Central Expressway, Suite 500
Dallas, TX 75206
Counsel for Patent Owner

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of August, 2024, a true and correct copy of the foregoing PATENT OWNER'S SUR REPLY, and any accompanying exhibits, was served by electronic mail upon the following counsel of record for Petitioners:

Theodore M. Foster
David L. McCombs
Eugene Goryunov
Brett Bostrom
Calmann Clements
HAYNES AND BOONE, LLP
ipr.theo.foster@haynesboone.com;
david.mccombs.ipr@haynesboone.com;
eugene.goryunov.ipr@haynesboone.com;
brett.bostrom.ipr@haynesboone.com;
calmann.clements.ipr@haynesboone.com

/Jeffrey Stephens/

Jeffrey Stephens (Reg. No. 56,254)
jstephens@carterarnett.com
Carter Arnett Bennett & Perez PLLC
8150 N. Central Expressway, Suite 500
Dallas, TX 75206
Counsel for Patent Owner