

From: Nguyen, Bao <bnguyen@kirkland.com>

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To: trials@uspto.gov

Cc: Strang, Jonathan (DC) <Jonathan.Strang@lw.com>; Peters, Steven (DC) <Steven.Peters@lw.com>; Osman, Inge (DC) <Inge.Osman@lw.com>; Wheeler, Kevin (DC) <Kevin.Wheeler@lw.com>; Davis, Blake (Bay Area) <Blake.Davis@lw.com>; Harms, Allison (Bay Area) <Allison.Harms@lw.com>; Alred, Ben (Bay Area) <Ben.Alred@lw.com>; Friedman, Todd M. <tfriedman@kirkland.com>; Marina, James E. <jmarina@kirkland.com>; Baker, W. Todd <todd.baker@kirkland.com>

Subject: IPR2023-01393 (714 patent) - Request to file pre-institution reply to Patent Owner's Preliminary Response (POPR)

Dear Trials,

Petitioner TP-Link Corporation Limited ("Petitioner") filed IPR2023-01393 challenging all claims of U.S. Patent 7,936,714 ("the '714 patent") on September 7, 2023, relying on Morikawa and Serizawa as primary references. The '714 patent is generally directed to the use of two different frequency bands for transmission and reception in a wireless communication network. Patent Owner Netgear, Inc. ("Patent Owner") filed a Preliminary Response with a 40-page supporting expert declaration from its technical expert, Dr. Haas (Exhibit 2001 - "Haas Decl."), on December 13, 2023.

Petitioner respectfully requests authorization to file a 10-page reply to Patent Owner's Preliminary Response (POPR), together with portions of the deposition transcript of Netgear's expert (Dr. Wicker) in the parallel ITC Investigation relating to the '714 Patent, which makes clear that asserted claims 13 and 32 (which are among the claims challenged in the IPR) are rendered obvious by Morikawa and Serizawa. Good cause exists for the requested reply for the following reasons:

(1) Despite Patent Owner's statement that no claim construction is required (POPR, at 10), the POPR relies on an implicit, unduly narrow claim construction to avoid the prior art that Petitioner could not have foreseen. As an example, claim 13 (discussed in the POPR) is directed to a base station that uses two different frequency bands to transmit and receive data (see elements 13[a] and 13[b]), and in that context, the "wherein" clause in claim element 13[d] ("wherein at least a portion of said receiving and at least a portion of said transmitting occur at the same time") means that the base station uses the two frequency bands concurrently ("at the same time") to transmit and receive data, not that it must simultaneously transmit and receive overlapping data packets, as wrongly alleged in the POPR. Patent Owner asserts the same unduly narrow construction for the "same communication session" term used in claims 31 and 32. Petitioner should have an opportunity to address this proposed construction.

(2) Patent Owner submitted a 40-page declaration from its technical expert Dr. Haas (Ex. 2001), cited throughout the POPR, that conflicts in material respects with the deposition testimony of Netgear's technical expert in the co-pending ITC litigation, Dr. Wicker. For example, and without limitation, Dr. Haas uses the sequence of request-response events resulting from an exemplary single user request discussed in Morikawa to argue that Morikawa's base station does not transmit and receive packets at the same time or during the same communication session. At his deposition in the ITC case, however, Dr. Wicker conceded that this sequence of request-response events in fact invalidates claim 32 of the '714 patent. Dr. Wicker also conceded that a base station can process multiple requests-responses from different users simultaneously, a fact not considered by Dr. Haas, which would also invalidate claims of the '714 patent, such as claim 13 discussed in the POPR. Petitioner should have an opportunity

to submit Dr. Wicker's testimony for the Board's consideration and to explain how it conflicts with Dr. Haas's declaration in material aspects.

(3) The POPR mischaracterizes the disclosure of the Morikawa and Serizawa references in numerous material ways. For example, the POPR argues that Morikawa does not disclose the "same time" and "same communication session" elements, including cherry-picking an exemplary explanation of a single user request-response sequence discussed in Morikawa (POPR, 14-18) to incorrectly argue that the operation of Morikawa's network is limited to that response-request example and does not satisfy the claims that recite "wherein at least a portion of said receiving and at least a portion of said transmitting occur at the same time" and "wherein said transmitting and said receiving occur during the same communication session" (POPR, 24-25). Further, the POPR argues that Serizawa does not disclose the "same time" and "same communication session" claim elements. For example and without limitation, Patent Owner mischaracterizes language in Serizawa that describes the pairing of certain frequencies (e.g., the frequency "f2 follows and corresponds to [frequency] f1"), arguing that it describes sequential operations. POPR, at 34. The POPR purports to cite to the Haas Decl. ¶180 for support, but the Haas declaration does not discuss this at all. In fact, the Haas Decl. shows that Dr. Haas understood that Serizawa describes the pairing of uplink and downlink frequencies. Petitioner should be able to address Patent Owner's mischaracterizations of both references.

The parties have conferred and Patent Owner opposes this request. The parties are available for a conference call with the Board during the following times:

- Friday, January 12, during normal business hours
- Tuesday, January 16, during normal business hours except 10:30-11:30 am ET
- Wednesday-Friday (January 17-19), during normal business hours

Regards,
Bao Nguyen
Counsel for Petitioner

Bao Nguyen
Kirkland & Ellis LLP
555 California Street, SF
(415) 439-1425

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