

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NOKIA OF AMERICA CORPORATION, ERICSSON INC.,
AND T-MOBILE USA, INC
Petitioners

v.

GENERAL ACCESS SOLUTIONS, LTD.,
Patent Owner

Case No. IPR2023-01416

U.S. Patent No. 6,947,477

MOTION TO SUBMIT SUPPLEMENTAL INFORMATION

TABLE OF EXHIBITS

Exhibit	Short Name	Description
Ex. 1001	'477 Patent	U.S. Patent No. 6,947,477
Ex. 1002	'477 File History	File History of U.S. Patent No. 6,947,477
Ex. 1003	van der Weide Declaration	Declaration of Daniel van der Weide, Ph.D.
Ex. 1004	van der Weide CV	Curriculum Vitae of Daniel van der Weide, Ph.D.
Ex. 1005	Genossar	U.S. Patent No. 6,643,321
Ex. 1006	WiMAX	IEEE 802.16.1 Draft Standard, "Air Interface for Fixed Broadband Wireless Access Systems"
Ex. 1007	Barratt '470	U.S. Patent No. 5,909,470
Ex. 1008	Barratt '490	U.S. Patent No. 5,592,490
Ex. 1009	PHS	Personal Handy Phone System, Association of Radio Industries and Businesses (ARIB) Standard, Version 2 (December 26, 1995)
Ex. 1010	Hall-Ellis Declaration	Declaration of Sylvia Hall-Ellis, Ph.D.
Ex. 1010-1	Hall-Ellis CV	Curriculum Vitae of Sylvia Hall-Ellis, Ph.D.
Ex. 1010-2	PHS MARC Record	MARC Record of Personal Handy Phone System, Association of Radio Industries and Business (ARIB) Standard, Version 2 (accessed October 8, 2023)
Ex. 1011	'477 Contentions	General Access Solutions' Disclosure of Initial Infringement Contentions Pursuant to P.R. 3-1 and 3-2, Exhibit B, "T-Mobile's Infringement of the '477 Patent"
Ex. 1012	Wang Article	Wang et al., "Forward Error-Correction Coding," Crosslink Magazine (published Winter 2001)
Ex. 1013	IBM Term Webpage	"Terms and Definitions," IBM Cloud Object Storage System, IBM.com (first published June 15, 1999)
Ex. 1014	District Court DCO	Doc. No. 34, Docket Control Order, <i>General Access Solutions, Ltd. v. T-Mobile USA, Inc.</i> , Case No. 2:23-cv-00158 (E.D. Tex.)
Ex. 1015	Caseload	U.S. District Court – Judicial Caseload Profile (Sept. 2022)

Ex. 1016	Fundamentals of WiMAX	Jeffrey G. Andrews, Ph.D., et al., <i>Fundamentals of WiMAX: Understanding Broadband Wireless Networking</i> , Prentice Hall (published October 2007)
Ex. 1017	Giallorenzi	U.S. Patent Application Publication No. 2002/0051435
Ex. 1018	60/243,980	U.S. Patent Provisional Application No. 60/243,980
Ex. 1019	60/243,972	U.S. Patent Provisional Application No. 60/243,972
Ex. 1020	Hall	U.S. Patent Application Publication No. 2002/0071384
Ex. 1021	60/243,808	U.S. Patent Provisional Application No. 60/243,808
Ex. 1022	Ertel	U.S. Patent Application Publication No. 2002/0051462
Ex. 1023	60/243,807	U.S. Patent Provisional Application No. 60/243,807
Ex. 1024	802.16 Working Group Webpage	IEEE 802.16 Working Group on Broadband Wireless Access Standards, https://www.ieee802.org/16/
Ex. 1025	Session #9 Webpage	IEEE 802.16 Working Group, 802.16 Session #9, https://www.ieee802.org/16/meetings/mtg09/ .
Ex. 1026	Session #9 Document List	IEEE 802.16 Working Group, Session #9 Document List, https://www.ieee802.org/16/meetings/mtg09/docs.html
Ex. 1027	Session #9 Attendance List	IEEE 802.16 Working Group, List of Session #9 Attendees, https://www.ieee802.org/16/meetings/mtg09/reglist.html
Ex. 1028	Session #9 Report	IEEE 802.16 Session #9 Report
Ex. 1029	Session #10 Report	IEEE 802.16 Session #10 Report
Ex. 1030	WiMAX Comments	IEEE 802.16.1-00/01r4, 584 comments (hyperlink)

Ex. 1031	WiMAX Call for Comments	IEEE 802.16 Working Group Review, Call for Comments on IEEE 802.16.1-00/01r4 “Air Interface for Fixed Broadband Wireless Access Systems,” published Sept. 29, 2000
Ex. 1032	Session #10 Webpage	IEEE 802.16 Working Group, 802.16 Session #10, https://www.ieee802.org/16/meetings/mtg10/
Ex. 1033	Session #10 Attendance List	IEEE 802.16, List of Session #10 Attendees
Ex. 1034	Eklund Declaration	Declaration of Mr. Carl Eklund
Ex. 1035	van der Weide Supplemental Declaration	Supplemental Declaration of Daniel van der Weide, Ph.D.

I. STATEMENT OF PRECISE RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.123(a) and in view of the authorization from the Board by email on May 16, 2024, Petitioners Nokia of America Corporation (“Nokia”), Ericsson Inc. (“Ericsson”), and T-Mobile USA, Inc. (“T-Mobile”) (collectively, “Petitioners”) move to submit Exhibits 1017-1035 to include the Supplemental Declarations of Dr. Daniel van der Weide and Mr. Carl Eklund.¹

II. STATEMENT OF MATERIAL FACTS

1. On October 13, 2023, Petitioners filed IPR2023-01416, which included Ground 2 – Genossar in view of WiMAX. The WiMAX reference (Ex. 1006) is the IEEE 802.16.1 Draft Standard, “Air Interface for Fixed Broadband Wireless Access Systems” (“WiMAX”). *See* Paper 1 at 10.

2. The alleged priority date of the ’477 Patent is January 19, 2001.

3. Patent Owner challenged the accessibility of WiMAX in its Preliminary Response. *See generally* Paper 8.

4. On April 16, 2024, trial was instituted on all challenged claims based on all asserted grounds. *See* Paper 12 at 47.

¹ Petitioner is filing each of these Exhibits contemporaneously with the instant motion. *See Canon Inc., et al. v. Avigilon Fortress Co.*, Case IPR2019-00311, Paper 17 at 8 (P.T.A.B. August 14, 2019).

5. On May 9, 2024, Petitioners emailed counsel for Patent Owner and asked whether it would oppose Petitioners' request to file the instant motion. On May 14, 2024, counsel for Patent Owner indicated that they would oppose. On May 16, 2024, Petitioners' request of May 15, 2024, to file the instant motion, was granted. On May 24, 2024, Petitioners provided Patent Owner with a copy of Exhibits 1017-1035.

6. Exhibit 1035 is the Supplemental Declaration of Dr. Daniel van der Weide and Exhibits 1017-1023 are supporting exhibits. Dr. van der Weide describes that WiMAX was publicly accessible before the '477 Patent's alleged priority date, was referenced and incorporated in patent applications dated well before the '477 Patent's alleged priority, and therefore WiMAX qualifies as prior art under § 102(a).

7. Exhibit 1034 is the declaration of Carl Eklund, who is an employee at Nokia Corporation, and Exhibits 1024-1033 are supporting exhibits. The Eklund Declaration confirms the authenticity and public accessibility of the WiMAX reference. The declaration describes Mr. Eklund's participation on the 802.16.1 MAC Task Group Chair, his attendance at Sessions #9 and #10 of the IEEE 802.16 Working Group, and his observations that WiMAX had been downloaded over 20,000 times by November 2000 and had resolved over 600 technical comments.

III. ARGUMENT

Under 37 C.F.R. § 42.123(a), a party may file a motion to submit supplemental

information where (1) the request for the authorization to file a motion to submit supplemental information is made within one month of trial institution, and (2) the supplemental information is relevant to a claim for which the trial has been instituted. Entry of the proposed supplemental information is appropriate because the exhibits are both timely and relevant to a claim for which trial has been instituted. *See* material facts (“MFs”) 5, 6, and 7; *see also* 37 C.F.R. § 42.123(a).

WiMAX is a reference supporting Ground 2. As set forth in MF 3, Patent Owner has challenged whether WiMAX was publicly accessible before January 19, 2001, and thus, qualifies as prior art under § 102(a). As a result of these evidentiary challenges, the issue of public accessibility is ripe and is properly addressed at this stage of the proceeding. *Cisco Systems, Inc., v. Centripetal Networks, Inc.*, IPR2018-0144, Paper 14 at 3 (P.T.A.B. May. 2, 2019).

Exhibit 1035, the van der Weide Supplemental Declaration, addresses the public accessibility of WiMAX. Exhibit 1034 is therefore relevant under 37 C.F.R. § 42.123(a). MF 6. Indeed, Exhibit 1035 includes statements from Dr. Daniel van der Weide explaining how at least three separate patent applications, all filed after the publication of WiMAX in September 2000 cite to and demonstrate the public accessibility of WiMAX before the alleged priority date of the ’477 Patent.

Exhibit 1034, the Eklund Declaration, also addresses the public accessibility of WiMAX and thus, the prior art status of WiMAX. MF 7. Exhibit 1034 is therefore

relevant under 37 C.F.R. § 42.123(a). *Id.* Indeed, Exhibit 1034 includes statements from Mr. Carl Eklund explaining how the WiMAX standard was downloaded over 20,000 times by November 2000, demonstrating its public accessibility before the alleged priority date of the '477 Patent of January 19, 2001.

While Petitioners disagree with the evidentiary challenges by Patent Owner, the supplemental information presented here responds to the challenges by Patent Owner. Moreover, Exhibits 1017-1035 do not change the evidence on which Petitioners relied in the Petition. Petitioners submitted the original van der Weide Declaration with the Petition. In Exhibit 1003, Dr. van der Weide discussed the public accessibility of WiMAX and specifically named Carl Eklund as an industry member who directly worked on and facilitated the production of the draft standard and identified him as someone with further knowledge of its importance and public accessibility. *See* Ex. 1003 at fn. 5. Thus, Petitioners are supplementing evidence that Patent Owner has been aware of since the Petition was filed.

Finally, Petitioners' supplemental information is consistent with the type of evidence the Board has allowed to address public accessibility. *Hulu, LLC v. Sound View Innovations, LLC*, IPR2018-01039, Paper 29 at 15 (PTAB Dec. 20, 2019) (precedential) citing *Nikon Corp. v. ASML Netherlands B.V.*, IPR2018-00688, Paper 16 at 5–6 (PTAB Oct. 29, 2018); *Ericsson Inc. v. Intellectual Ventures I LLC*, IPR2014-01149, Paper 19 at 6–7 (PTAB March 30, 2015).

As part this filing, Patent Owner received Exhibits 1017-1035 on May 24, 2024, nearly two months before the Patent Owner Response deadline of July 8, 2024. MF 5. Patent Owner has sufficient time to address the supplemental information contained in Exhibits 1017-1035 and is therefore not prejudiced. *See Palo Alto Networks, Inc. v. Juniper Networks, Inc.*, Case IPR2013-00369, Paper 37 at 5 (P.T.A.B. Feb. 5, 2014) (finding less than two months of time sufficient).

In addition, entry of these exhibits will provide Patent Owner with the benefit of being able to respond to the supplemental information in its Response. Indeed, reviewing the information now may avoid costly and/or piecemeal briefing with respect to public accessibility. Should Patent Owner elect not to argue the prior art status issue in its Response, neither party need address the issue again. Thus, addressing this evidence now will further ensure “the just, speedy, and inexpensive resolution” of the proceeding pursuant to 37 C.F.R. § 42.1(b). *Nikon Corp. v. ASML Netherlands B.V.*, IPR2018-00688, Paper 16 at 4 (P.T.A.B. Oct. 29, 2018).

IV. CONCLUSION

Entry of Exhibits 1017-1035 as supplemental information under 37 C.F.R. § 42.123(a) is appropriate for the reasons discussed above.

Dated: May 24, 2024

Respectfully submitted,

/John D. Haynes/
John D. Haynes, Reg. No. 44,754

CERTIFICATE OF SERVICE

The undersigned certifies service that Petitioner served a copy of the foregoing MOTION TO SUBMIT SUPPLEMENTAL INFORMATION by filing this document through the P-TACTS Filing System as well as sending a copy via electronic service (as agreed by counsel for Patent Owners) on the following:

Sarah Spires (sspires@skiermontderby.com)
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May 24, 2024
Date

By /John D. Haynes/