

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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JUNIPER NETWORKS, INC.,  
Petitioner,

v.

MONARCH NETWORKING SOLUTIONS, LLC,  
Patent Owner.

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Case IPR2024-00175  
Patent 8,693,369

**PATENT OWNER'S UNOPPOSED MOTION TO ACCEPT NEW  
EVIDENCE IN THE FORM OF A DECLARATION OF DR. DANIEL  
MINOLI**

***Mail Stop "PATENT BOARD"***

Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

### EXHIBIT LIST

| Exhibit | Description                                                                                                                                                                                                                                          |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| EX2001  | Declaration of Daniel Minoli in Support of Patent Owner's Preliminary Response                                                                                                                                                                       |
| EX2002  | <i>Curriculum Vitae</i> of Danieal Minoli                                                                                                                                                                                                            |
| EX2003  | RFC 793 ("Transmission Control Protocol") (Sept. 1981), available at <a href="https://datatracker.ietf.org/doc/html/rfc793">https://datatracker.ietf.org/doc/html/rfc793</a>                                                                         |
| EX2004  | RFC 768 ("User Datagram Protocol") (Aug. 1980), available at <a href="https://datatracker.ietf.org/doc/html/rfc768">https://datatracker.ietf.org/doc/html/rfc768</a>                                                                                 |
| EX2005  | RFC 1933 ("Transition Mechanisms for IPv6 Hosts and Routers") (Apr. 1996), available at <a href="https://datatracker.ietf.org/doc/html/rfc1933">https://datatracker.ietf.org/doc/html/rfc1933</a>                                                    |
| EX2006  | RFC 1631 ("The IP Network Address Translator (NAT)") (May 1994), available at <a href="https://datatracker.ietf.org/doc/html/rfc1637">https://datatracker.ietf.org/doc/html/rfc1637</a>                                                              |
| EX2007  | RFC 2663 ("IP Network Address Translator (NAT) Terminology and Considerations") (Aug. 1999), available at <a href="https://datatracker.ietf.org/doc/html/rfc2663">https://datatracker.ietf.org/doc/html/rfc2663</a>                                  |
| EX2008  | Decision Ordering Reexamination, No. 90/015,315 (Jan. 18, 2024)                                                                                                                                                                                      |
| EX2009  | PTO Reexamination Statistics, available at <a href="https://www.uspto.gov/sites/default/files/documents/reexamination-op-stats.pdf">https://www.uspto.gov/sites/default/files/documents/reexamination-op-stats.pdf</a> (last accessed Feb. 20, 2024) |
| EX2010  | U.S. Pat. Pub. 2002/0141389 to Fangman <i>et al.</i>                                                                                                                                                                                                 |
| EX2011  | RFC 2460 ("Internet Protocol, Version 6 (IPv6) Specification") (Dec. 1998), available at <a href="https://datatracker.ietf.org/doc/html/rfc2460">https://datatracker.ietf.org/doc/html/rfc2460</a>                                                   |
| EX2012  | Declaration in Support of Motion for <i>Pro Hac Vice</i> Admission of William B. Collier, Jr.                                                                                                                                                        |

| <b>Exhibit</b> | <b>Description</b>                                                                                                                                               |
|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| EX2013         | RFC 1010 (“Assigned Numbers”) (May 1987), available at <a href="https://datatracker.ietf.org/doc/html/rfc1010">https://datatracker.ietf.org/doc/html/rfc1010</a> |
| EX2014         | Declaration of Daniel Minoli in Support of Patent Owner’s Response                                                                                               |
| EX2015         | Declaration of Daniel Minoli in Support of Patent Owner’s Sur-reply                                                                                              |

TABLE OF AUTHORITIES

**Rules**

|                               |   |
|-------------------------------|---|
| 37 C.F.R. § 42.23(b) .....    | 1 |
| 37 C.F.R. § 42.5(b) .....     | 1 |
| 37 C.F.R. §§ 42.5(c)(3) ..... | 1 |

Per the January 8, 2025, emails between the parties and the Board, Patent Owner moves for the Board to accept the declaration testimony of Dr. Daniel Minoli (EX2015) filed with Patent Owner's sur-reply. Petitioner does not oppose this motion.

Ordinarily, “[a] sur-reply may only respond to arguments raised in the corresponding reply and may not be accompanied by new evidence other than deposition transcripts of the cross-examination of any reply witness.” 37 C.F.R. § 42.23(b). However, “[t]he Board may waive or suspend a requirement of parts 1, 41, and 42 and may place conditions on the waiver or suspension.” 37 C.F.R. § 42.5(b); *see also* 37 C.F.R. §§ 42.5(c)(3) (noting that “[a] late action will be excused on a showing of good cause or upon a Board decision that consideration on the merits would be in the interests of justice.”). Here, there is good cause for the Board to accept the filing of Dr. Minoli's declaration with Patent Owner's sur-reply, and consideration of it on the merits would be in the interest of justice. As explained below, Dr. Minoli's declaration is the only way to address new grounds and related facts presented by Petitioner for the first time in its Reply. Furthermore, Petitioner does not oppose this motion, and has instead agreed to a proposal allowing it to file a supplemental brief addressing the declaration instead. *See* Paper 29. Thus, accepting EX2015 creates a more comprehensive record for the Board to consider without prejudicing the Petitioner.

Dr. Minoli's declaration directly addresses three issues raised in Petitioner's reply and the accompanying declaration of its expert, Dr. Bhattacharjee. Namely: 1) whether Fangman describes the circumstances where an IP telephone receives

an “unsolicited” call; 2) whether a POSITA would find it obvious to apply King’s teachings in reverse; and 3) whether a POSITA would have found it obvious to modify the teachings of Fangman and/or King to use port ranges when routing an IP packet. Each of these points responds to a specific argument newly raised in Petitioner’s reply.

*First*, Grounds 2 and 4 of the Petition rely primarily on the Fangman reference (EX1024), which describes a system for IP telephone calls. *See* Petition (“Pet.”) 38. One issue raised in the briefing concerns how a device called a “service gateway” routes IP telephone packets from the public network to a phone on a private network. *See, e.g.*, Reply 5-9. The Petition argued that, because Fangman assigns port ranges to a telephone to use in its outgoing transmissions, Fangman also uses those same port ranges to route packets coming back to the phone. *See* Pet. 43-45. Patent Owner’s response (“POR”) noted that, in the Fangman embodiments relied on in the Petition, the only inbound packet transmissions come following some outgoing transmissions, and as a result the service gateway has already associated the phone with a specific port number. *See* POR 22-23. Thus, the service gateway uses that port number (rather than the previously assigned port range) to route the packet. *Id.*

In its Reply, Petitioner argued that, due to the nature of IP telephones, Fangman’s system must be able to handle “unsolicited” calls where there has been no previous outgoing message. Reply 7, 9-11. According to Petitioner and its expert, in that situation, the system according to Fangman must use port ranges because a port number has not been previously assigned to the receiving phone. *Id.*

Petitioner's argument relies heavily on Dr. Bhattacharjee's new declaration and his description of various technical aspects of IP telephony. *Id.*

Dr. Bhattacharjee's declaration makes these same points and purportedly supports it with a technical discussion of several aspects of IP telephony. EX1039 ¶¶13-21. For example, Dr. Bhattacharjee argues that NAT could not support unsolicited calls. *Id.* ¶¶14-15. In support of this position, he makes several related technical points, relying on newly submitted exhibits and allegations related to a POSITA's knowledge and understanding. *Id.* ¶¶14-15 (citing EX1041-1045). Dr. Bhattacharjee then makes several new technical points related to Fangman's disclosure, including, for example, a new interpretation of Fangman's NAPPT. *Id.* ¶¶12-16.

Dr. Minoli's declaration addresses these new technical points and arguments. He explains that there is no situation where an IP telephone has not initiated some sort of outgoing registration message in Fangman's system. EX2015 ¶3-12. For example, Dr. Minoli responds to Dr. Bhattacharjee's arguments in explaining that no client device can receive an "unsolicited" packet. EX2015 ¶7. Dr. Minoli goes on to explain how Fangman's system relies on prior messages to enable IP telephone calls. EX2015 ¶¶9-12. This discussion directly responds to the new argument raised in the Reply and Dr. Bhattacharjee's accompanying declaration.

*Second*, grounds 3 and 5 of the Petition rely primarily on the King reference (EX1025). Pet. 53-55. King describes a system to classify IP patents. Pet. 55. The Petition argues King's classification system teaches the claimed routing a packet

based on a port range. Pet. 60-64. In the POR, Patent Owner pointed out that King does not use the destination ports *at all*, and that the Petition only pointed to King's use of source ports. POR 28-31. The POR also argued that King's system does not describe routing packets, only classifying them. *Id.* 31-33.

The Petitioner, in its Reply, newly argues that “a POSITA would have found it obvious to apply King's outbound teachings to inbound communications.” Reply 20. This argument relies heavily on Dr. Bhattacharjee's declaration filed with the reply in which he argues that a POSITA would have understood King could apply its teachings related to outbound packets to inbound packets. *Id.*; EX1039 ¶¶25-29. For example, Dr. Bhattacharjee contends that “A POSITA would have understood that King's outbound disclosures can easily be applied to routing inbound transmissions and that King's disclosures actually teach toward that idea.” *Id.* ¶25. He argues that “[a] POSITA would have understood that applying this exact process to inbound data packets would be trivial.” *Id.* ¶26. He provides example code allegedly enabling this change. *Id.* He states that “A POSITA would have known that, to replace or supplement PAT, King's invention would be performed on both outbound and inbound data packets.” *Id.* ¶27. He finally argues that “a POSITA would have recognized that aggregation device **110** must know where to send inbound data packets” and “A POSITA would have understood that aggregation device **110** could use NAT or PAT...but a POSITA would have known that implementing NAT or PAT would needlessly waste resources....” *Id.* ¶28.

None of these arguments related to a POSITA's understanding of King or a POSITA's motivations to modify King were raised in the petition or Dr. Bhattacharjee's original declaration. Accordingly, Dr. Minoli's new declaration is needed to address these points. For example, Dr. Minoli explains why King could not simply be applied "in reverse," and that a POSITA would understand this. EX2015 ¶14. Dr. Minoli also responds to Dr. Bhattacharjee's discussion of PAT and its function in King. *Id.* Each of these factual points is necessary to respond to the new arguments raised in the Reply and declaration.

*Third*, in light of the above issues, the Reply argues with respect to both Fangman and King that, *e.g.*, "[e]ven if the Board were to conclude that Fangman teaches the individual-port implementation and not the port-range implementation, then a POSITA would have at the very least found it obvious to implement the port-range table instead." Reply 16; *see* Reply 22 (similar with respect to King). This modification was not proposed in the Petition, and the Reply and Dr. Bhattacharjee's declaration include significant detail related to this *new* point. Reply 16-17, 22; EX1039 ¶¶23, 28. For example, Dr. Bhattacharjee describes alleged efficiencies gained by the proposed modification and suggests a POSITA would know to make such a modification because port ranges are discussed in other contexts in Fangman and King. *Id.*

Dr. Minoli's declaration directly addresses this point by describing assorted reasons why such a modification would not make sense to a POSITA. EX2015 ¶16. For example, Dr. Minoli explains the significance of the change from traditional methods, which could induce complexity and incompatibility, and that

Fangman and King teach away from the proposed modification. *Id.* Because this modification and these motivations were not raised in the Petition, Dr. Minoli's declaration is needed to address these issues with the sur-reply.

Each of the three issues detailed above is a new argument based on new technical points raised for the first time in Reply, and Patent Owner and its expert had no opportunity to respond prior to the sur-reply. The only means to address these new technical points and factual allegations is with Dr. Minoli's declaration filed with the sur-reply. Accordingly, Patent Owner respectfully requests that the Board accept the submission of Dr. Minoli's declaration (EX2015). As noted above, Petitioner does not oppose this motion.

Dated: January 20, 2025

Respectfully submitted,

By: /R. Allan Bullwinkel/

R. Allan Bullwinkel (Reg. No. 77,630)

Attorney for Patent Owner

Monarch Networking Solutions, LLC

**CERTIFICATE OF SERVICE**

The undersigned certifies that pursuant to 37 C.F.R. § 42.6(e), a copy of the foregoing motion was served via email to lead and backup counsel of record for Petitioners as follows:

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