UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COMCAST CABLE COMMUNICATIONS, LLC,
Petitioner,

v.

ENTROPIC COMMUNICATIONS, LLC.,
Patent Owner.

Patent No. 10,135,682
Filing Date: January 9, 2018
Issue Date: November 20, 2018

Title: METHOD AND SYSTEM FOR SERVICE GROUP MANAGEMENT IN A CABLE NETWORK

Inter Partes Review No.: IPR2024-00445

PETITIONER'S PETITION RANKING AND EXPLANATION OF MATERIAL DIFFERENCES BETWEEN PETITIONS

Pursuant to the November 2019 update to the America Invents Act (AIA) Trial Practice Guide published by the USPTO, Petitioner submits this notice of its ranking of its petitions for *inter partes* review of U.S. Patent No. 10,135,682 filed in IPR2024-00444 and IPR2024-00445. *See* "CONSOLIDATED TRIAL PRACTICE GUIDE UPDATE (November 2019)" at 59-60. Petitioner also includes herein an explanation of the material differences between the petitions.

Petitioner filed two petitions. Petition 1 (IPR2024-00444) primarily relies on the Cooper and Prodan references. Petition 2 (IPR2024-00445) primarily relies on the Thibeault reference.

Ordering of Petitions. Although Petitioner believes that its petitions are all meritorious and justified in light of the positions Patent Owner may take, at this stage, Petitioner requests that the Board consider the petitions in the following order:

Rank	Petition	Primary Reference(s)
A	IPR2024-00444 (Petition 1)	Cooper and Prodan
B	IPR2024-00445 (Petition 2)	Thibeault

Below are some of the material differences between the petitions:

(1) *Different Prior Art Date of References*: Certain of the primary references relied on in the petitions qualify as prior art under 35 U.S.C. § 102(e). It is, therefore, possible that the Patent Owner could attempt to antedate these references and/or remove them as prior art. In particular, the Prodan and Thibeault references are prior art under 102(e). The Thibeault reference was filed on August 11, 2011 and the

Prodan reference claims priority to a provisional application filed April 22, 2011. The Cooper reference is 102(b) prior art and as such cannot be antedated by Patent Owner.

(2) ***Different Approaches to the Claim Limitations***: The prior art combinations used in the petitions teach the claim limitations in different ways.

Each of the primary prior art grounds have different strengths with respect to various different claims. For example, Petition IPR2024-00444 asserts that Cooper in combination with Saey renders obvious claims 1-2, 7-8, 10-11 and 16-17 and Prodan in combination with Saey renders obvious claims 1-2 and 6. In contrast, Petition IPR2024-00445 asserts that Thibeault in combination with Saey, Gross, or Cioffi renders obvious claims 1-2 and 10-11.

Furthermore, the petitions generally use different primary references as teaching certain features of dependent claims or for back-up arguments to the primary references. For instance, the Cooper combinations in Petition IPR2024-00444 include back-up arguments for independent claims 1 and 10 based on Monk, whereas the Thibeault combinations in Petition IPR2024-00445 do not rely on Monk as a back-up argument. Furthermore, the Prodan combinations in Petition IPR2024-00444 do not require a secondary reference for dependent claim 6 because Prodan expressly discloses determining a signal-to-noise ratio versus frequency profile. Similarly, the Cooper combinations in Petition IPR2024-00444

also do not require a secondary reference for dependent claims 7-8 and 16-17 because Cooper expressly discloses assigning cable modems to service groups based on their distance to a CMTS or based on amplifier cascade depth.

Finally, the petitions add different references to their respective base combinations in order to show certain dependent claims are obvious. With respect to dependent claims 3-5, for example, the petitions rely on different secondary references that disclose different reasons for using to OFDM—specifically, Jalali in Petition IPR2024-00444 and Monk802 in Petition IPR2024-00445. In addition, Petition IPR2024-00445 adds an additional reference (Cooper) to the Thibeault combinations for dependent claims 7-8 and 16-17.

Depending upon the arguments Patent Owner makes, the use of these different references could be material.

Conclusion. In view of the material differences shown above, the Board should consider both petitions and not exercise its discretion to deny institution of either of the IPRs.

Dated: February 15, 2024

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.105, I hereby certify that I caused a true and correct copy of the PETITIONER'S PETITION RANKING AND EXPLANATION OF MATERIAL DIFFERENCES BETWEEN PETITIONS to be served via FedEx Priority Overnight on February 15, 2024, on the following:

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Dated: February 15, 2024

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