

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CHARTER COMMUNICATIONS, INC.,
Petitioner,

v.

IARNACH TECHNOLOGIES LTD.,
Patent Owner.

Case IPR: 2024-01287
U.S. Patent No. 9,287,982

PETITIONER'S MOTION TO SUBMIT
SUPPLEMENTAL EVIDENCE

PETITIONER'S PROPOSED NEW EXHIBITS

Ex. 1011	Declaration of Thomas Dickson
Ex. 1012	Declaration of Raymond Ricordati
Ex. 1013	Wayback Machine archive of webpage http://metroethernetforum.org/ PDF_Documents/MEF6-1.pdf as of November 19, 2008
Ex. 1014	International Publication No. WO2011/003478

TABLE OF CONTENTS

I. BACKGROUND.....	1
II. LEGAL STANDARD.....	2
III. ARGUMENT	2

TABLE OF AUTHORITIES

Cases

Inergy Technology, Inc. v. Force Mos Technology Co., Ltd.,
IPR2024-00094 (PTAB Jul. 19, 2024) 2, 4

Palo Alto Networks, Inc. v. Juniper Networks, Inc.,
IPR2013-00369 (PTAB Feb. 5, 2014).....3, 4

Regulations

37 C.F.R. § 42.123(a)..... 1, 2, 3, 4

Pursuant to authorization received from the Board on March 24, 2025, Petitioner Charter Communications, Inc. (“Charter”) hereby moves to submit (1) the Declaration of Thomas Dickson (the “Dickson Declaration”) and (2) the Ricordati Declaration of Raymond R. Ricordati III along with a two supporting exhibits (the “Ricordati Declaration”) as supplemental evidence. Charter served its supplemental evidence on Patent Owner on March 20, 2025, within ten business days of Patent Owner’s objections, in accordance with 37 C.F.R. § 42.64. In addition, this motion is timely under 37 C.F.R. § 42.123(a) because Charter requested authorization to file within one month of the Board instituting Charter’s IPR petition.

I. BACKGROUND

Charter originally filed IPR2024-01287 on August 8, 2024. Paper 1.

The IPR2024-01287 asserts four grounds, two of which rely upon Ex. 1007, MEF Technical Specification, MEF 6.1, Ethernet Services Definitions – Phase 2, April 2008 (“MEF 6.1”): Ground 2, alleging obvious over U.S. Patent No. 8,831,425 in combination with MEF 6.1 and/or in U.S. Patent No. 8,160,448; and Ground 4 alleging obvious over U.S. Patent No. 8,160,448 in combination with MEF 6.1 and/or in U.S. Patent No. 8,831,425. *Id.*, 22. On February 20, 2025, the Board instituted review. Paper 12.

On March 6, 2025 Patent Owner filed objections to evidence objecting, inter alia, to the authenticity of Ex. 1007. Paper 14.

On March 20, 2025, Petition served copies of the supplemental evidence including (1) the Hall-Ellis Declaration, (2) Ricordati Declaration, (3) a copy of a web archived version of MEF 6.1 retrieved on November 19, 2008 and (4) a copy of WO2011/003478.

II. LEGAL STANDARD

Supplemental evidence may be submitted under 37 C.F.R. § 42.64 when “The party relying on evidence to which an objection is timely served may respond to the objection by serving supplemental evidence within ten business days of service of the objection.”

In addition, a party may move to submit supplemental information once trial has been instituted if: “(1) A request for the authorization to file a motion to submit supplemental information is made within one month of the date the trial is instituted” and “(2) [t]he supplemental information must be relevant to a claim for which the trial has been instituted.” 37 C.F.R. § 42.123(a). The Board also considers its mandate “to secure the just, speedy, and inexpensive resolution of every proceeding.” *Inergy Technology, Inc. v. Force Mos Technology Co., Ltd.*, IPR2024-00094, Paper 14 at 2 (PTAB Jul. 19, 2024).

III. ARGUMENT

The proposed new exhibits qualify as supplemental evidence under 37 C.F.R. § 42.64 because they were served on Patent Owner on March 20, 2025, within ten

business days of Patent Owner's objections. Petitioner intends to rely on this supplemental information to respond to objections to Exhibit 1007 ("MEF 6.1") that may be made by Patent Owner.

In addition, Petitioner's present motion also meets the requirements of 37 C.F.R. § 42.123(a). Petitioner's request was timely as Petitioner requested authorization on March 20, 2025, within one month of the February 20, 2025 institution decision, and the supplemental evidence was served on Patent Owner on March 20, 2025, within ten business days of Patent Owner's objections. Paper 12.

The Dickson Declaration and the Ricordati Declaration and supporting documents are relevant to claims at issue in this trial. The Dickson Declaration provides testimony regarding the publication and authenticity of MEF 6.1, which is a secondary reference in both Grounds 2 and 4. Paper 1, 22. Similarly, the Ricordati Declaration and supporting exhibits also provide additional evidence regarding the authenticity and the public accessibility of MEF 6.1. See, e.g., Exs. 1013-1014.

Petitioner's submission of the Dickson Declaration and the Ricordati Declaration and supporting exhibits would not change the grounds of unpatentability or any of the evidence initially presented in the Petition to support those grounds of unpatentability. *E.g., Palo Alto Networks, Inc. v. Juniper Networks, Inc.*, IPR2013-00369, Paper 37, 3 (PTAB Feb. 5, 2014). Rather, the supplemental information is limited to the issue of publication and authenticity of MEF 6.1. There is no risk that

the supplemental information would create new issues or otherwise be inconsistent with the Petition. In addition, that the documents were also served as supplemental evidence does not prevent them from being submitted under 37 C.F.R. § 42.123 as supplemental information. *E.g., Inergy Technology*, IPR2024-00094, Paper 14 at 4.3

Petitioner's submission of the Dickson Declaration and the Ricordati Declaration and supporting exhibits would not interfere with the just, speedy, and inexpensive resolution of this proceeding, nor would it prejudice Patent Owner. *See Palo Alto*, IPR2013-00369, Paper 37, 4. Patent Owner was provided with the information on March 20, 2025, well before its current May 15, 2025 response date.

Dated: April 8, 2025

Respectfully submitted,

/s/ Raymond R. Ricordati III , Reg. #62,856
Raymond R. Ricordati III (Reg. No. 62,856)
rricordati@marshallip.com
Lead Counsel for Petitioner

Thomas L. Duston
(*pro hac vice*)
tduston@marshallip.com
Back-up Counsel for Petitioner

Customer No. 04743

Marshall, Gerstein & Borun LLP
6300 Willis Tower
233 South Wacker Drive
Chicago, Illinois 60606-6357
Telephone: (312) 474-6300
MGBLitDocket@marshallip.com

Attorneys for Petitioner

CERTIFICATE OF SERVICE

The undersigned certifies pursuant to 37 C.F.R. §§ 42.6(e) and 42.105(a) that on April 8, 2025, a true and correct copy of the foregoing was served via electronic mail upon the following:

Christopher L. Limbacher – climbacher@hpcllp.com
Blaine A. Larson - blarson@hpcllp.com
Michael F. Heim - mheim@hpcllp.com
Eric J. Enger - eenger@hpcllp.com
IarnachIPLPL@hpcllp.com

Dated: April 8, 2025

/s/ Raymond R. Ricordati III, Reg #62,856

Raymond R. Ricordati III (Reg. No. 62,856)

Lead Counsel for Petitioner