

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NOKIA OF AMERICA CORP., ERICSSON INC.,
AT&T SERVICES, INC.,
CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS,
AND T-MOBILE USA, INC.,
Petitioners,

v.

PEGASUS WIRELESS INNOVATION LLC,
Patent Owner.

Case IPR2025-00037
Patent 10,616,932

PATENT OWNER'S PRELIMINARY SUR-REPLY

TABLE OF CONTENTS

I.	IDENTIFYING A “TYPE” OF SIGNALING RADIO BEARER DOES NOT “DISTINGUISH SIGNALING RADIO BEARERS”	1
II.	THE BOARD SHOULD DENY INSTITUTION UNDER <i>FINTIV</i>	4
	CERTIFICATE OF SERVICE	7

PATENT OWNER'S EXHIBIT LIST

Exhibit No.	Description
2001	Memorandum Opinion and Order in <i>Pegasus Wireless Innovation LLC v. Verizon Communications Inc. et al.</i> , Nos. 2:23-cv-00640, 2:23-cv-00638, 2:23-cv-00639 (E.D. Tex Dec. 11, 2024)
2002	Memorandum Opinion and Order in <i>Pegasus Wireless Innovation LLC v. Verizon Communications Inc. et al.</i> , Nos. 2:23-cv-00640, 2:23-cv-00638, 2:23-cv-00639 (E.D. Tex Dec. 23, 2024)
2003	Comparison of Districts Within the Fifth Circuit — 12-Month Period Ending September 30, 2024 (available at https://www.uscourts.gov/sites/default/files/2024-12/fcms_na_distcomparison0930.2024.pdf)
2004	Defendants' Preliminary Invalidity Contentions in <i>Pegasus Wireless Innovation LLC v. Verizon Communications Inc. et al.</i> , Nos. 2:23-cv-00640, 2:23-cv-00638, 2:23-cv-00639 (E.D. Tex May 17, 2024)
2005	Reserved
2006	Reserved
2007	Reserved
2008	Reserved
2009	Appendix C to Defendants' Preliminary Invalidity Contentions in <i>Pegasus Wireless Innovation LLC v. Verizon Communications Inc. et al.</i> , Nos. 2:23-cv-00640, 2:23-cv-00638, 2:23-cv-00639 (E.D. Tex May 17, 2024)
2010	Ex. C-1 of Appendix C to Defendants' Preliminary Invalidity Contentions in <i>Pegasus Wireless Innovation LLC v. Verizon Communications Inc. et al.</i> , Nos. 2:23-cv-00640, 2:23-cv-00638, 2:23-cv-00639 (E.D. Tex May 17, 2024)
2011	Ex. C-3 of Appendix C to Defendants' Preliminary Invalidity Contentions in <i>Pegasus Wireless Innovation LLC v. Verizon Communications Inc. et al.</i> , Nos. 2:23-cv-00640, 2:23-cv-00638, 2:23-cv-00639 (E.D. Tex May 17, 2024)
2012	Ex. C-2 of Appendix C to Defendants' Preliminary Invalidity Contentions in <i>Pegasus Wireless Innovation LLC v. Verizon</i>

Exhibit No.	Description
	<i>Communications Inc. et al.</i> , Nos. 2:23-cv-00640, 2:23-cv-00638, 2:23-cv-00639 (E.D. Tex May 17, 2024)
2013	U.S. Patent 10,257,881 (Lin1 Counterpart)
2014	U.S. Patent 10,728,876 (Lin2 Counterpart)
2015	U.S. Patent 9,807,752 (Zhang Counterpart)
2016	Reserved
2017	Reserved

As authorized by the Board (Ex. 3001), Patent Owner files this Preliminary Sur-Reply in support of its Preliminary Response (“POPR”) and in response to Petitioners’ Preliminary Reply (“Reply”).

I. IDENTIFYING A “TYPE” OF SIGNALING RADIO BEARER DOES NOT “DISTINGUISH SIGNALING RADIO BEARERS”

The Reply at 1 mischaracterizes Patent Owner’s position. As explained in the POPR, the requirement in claims 1 and 8 to “*distinguish* signaling radio bearers *based on radio bearer identification information*,” requires identification information that is specific to a signaling radio bearer, and not to “user equipment” or a “data radio bearer” as alleged by Petitioners. It flows from this claimed “distinguish” requirement that the radio bearer identification information distinguishes between signaling radio bearers of the *same type*. This requirement follows from the plain language of the claims, which does not call for distinguishing “types” of signaling radio bearers, and is also supported by the specification of the ’932 patent. POPR, 5-12.

Petitioners’ Reply confirms that the Petition’s analysis of the ’932 patent was flawed. Despite the requirement “to distinguish signaling radio bearers” in claims 1 and 8, the Petition and its expert looked for and analyzed information concerning a “type” of signaling radio bearer. Reply, 1 (“identifying a signaling radio bearer (SRB) using information that is specific to an SRB type”). Petitioners’ new contention that the Petition’s analysis of Lin1 and Zhang went beyond

distinguishing “types” of signaling radio bearers is plainly wrong.

When analyzing whether Lin1 distinguished signaling radio bearers, the Petition expressly relied on “types” of signaling radio bearers, and did not rely on other disclosures in Lin1. POPR, 16-17 (citing Pet., 26 and Kotzin, ¶142).

Similarly, the Reply’s footnote 1 misleadingly crops a quotation from the ’932 patent to suggest that identifying a UE is enough information to distinguish a signaling radio bearer and suggests, without the support of its expert, that Zhang has a similar disclosure. But that argument does not account for the specific information that the ’932 patent indicates could be used to distinguish a signaling radio bearer, *see* POPR, 19 (citing ’932 patent, 15:43-51), and such identification information is not present in Zhang. Even Petitioners’ expert analyzed Zhang’s disclosure of “identification” information, and concluded that Zhang’s “values” only disclosed information to distinguish an SRB *type*. POPR, 23 (citing Pet., 77-78, Kotzin, ¶336 & 345). Petitioner’s Reply cites to no other “values” in Zhang.

The Reply does not refute that, in the “dual connectivity” environment disclosed in the ’932 patent, a single UE can have the same “type” of signaling radio bearer (*e.g.*, POPR, 8-9). In furtherance of the disclosed goal of dual connectivity, the ’932 patent discloses that the use of radio bearer identification information that can distinguish signaling radio bearers. Simply identifying the UE would be insufficient, as the UE could have multiple signaling radio bearers.

Identifying a “type” of signaling radio bearer would also fail, as the UE could have multiple signaling radio bearers of the same type. As the POPR demonstrated at pp. 5-12, Petitioners are incorrect in asserting that “distinguishing between SRB types, such as **SRB0** and **SRB1**, is precisely how the '932 Patent distinguishes between messages for processing.” Reply, 3. The Reply appears to be arguing that because SRBs can be of a specific type or correspond to a logical channel, knowing the type of SRB or logical channel is sufficient to identify the SRB. Reply, 3-4. But that is not supported by the '932 patent for the reasons stated above and in the POPR. It would be improper to import a “type” requirement into the claims because knowing an SRB's “type” does not distinguish the signaling radio bearer as required by the claims.

Indeed, the Reply's discussion of what could and could not distinguish a signaling radio bearer contradicts the '932 patent disclosure. Petitioners contend that “[a]n E-RAB ID does not comply with the requirement of the claims as it is specific to a data radio bearer, instead of a signaling radio bearer,” but this ignores the '932 patent's disclosure that “at least one information among ... a bearer ID (e.g. an E-RAB ID) ..., which allow transmission and reception to be separately performed according to the radio bearers, in order to distinguish the radio bearer (e.g. above-described signaling [bearer]).” '932 patent, 15:45-51. Similarly, the Reply's argument that “TEID is also deficient as it is used as an alternative to the

radio bearer identification information” (Reply, 4-5) is refuted by the '932 patent, which discloses “a GTP-TEID to distinguish the radio bearer of the corresponding UE (e.g. the above-described signaling [bearer]). '932 patent, 15:40-42.

Finally, Petitioners argue that dependent claims 3-5 and 10-12 are somehow “inoperative” under Patent Owner's interpretation. Reply, 3. Claim 3, for example, recites “the first message comprises at least one of an RRC connection request message received from the terminal and a C-RNTI,” but this claim does not preclude “radio bearer identification information” from being included in the first message. Another unexplained argument in the Reply is “**SRB0** is not used in a UE-specific manner at all. See Ex. 1001, 17:53-56.” Reply, 3 n.3. Whatever the purpose of that argument, the '932 patent at 17:53-56 is referring to the message from the UE to the AU (S1210 in Fig. 12), which is not the claimed “first message.” A different message, from the AU to the CU, corresponds to the “first message” and includes the claimed identification information. '932 patent, 17:57-67 (“by including a static or dynamic tunneling configuration”). Petitioners' inoperativeness argument is wholly unsupported and wrong.

II. THE BOARD SHOULD DENY INSTITUTION UNDER *FINTIV*

Petitioners present cursory arguments regarding *Fintiv*. They reference “the number of district court cases and the fact that trial dates have not yet been set for two of the three cases” (Reply, 5), but that argument has been repeatedly rejected

by the Board as weighing in favor of institution. *See* POPR, 28-29, 30 (citing cases). Moreover, Petitioners do not contend that all three of these cases will need to go to trial in order to fully litigate all validity issues surrounding the '932 patent. One trial date set eight months before a final written decision here is sufficient to fully test the '932 patent's validity in district court and to push this factor in favor of institution denial. Petitioners also mention "[c]ompelling merits" (Reply, 5) but do nothing to show the merits are "compelling" here. Indeed, as explained above, Petitioners' substantive arguments lack any merit whatsoever. Finally, Petitioners "present a *Sotera* stipulation." Reply, 5. But this stipulation does not outweigh the significant weight in favor of discretionary denial. Considering the significantly earlier trial date, Petitioners' attempt to peel off a small subset of the case's invalidity issues for this IPR would be an inefficient use of resources. This case presents a situation where a broad, multi-patent suit can be fully resolved many months before the Board issues a final written decision here. The district court would consider the issues raised in this IPR, and also all other validity and infringement issues involving the challenged patent. Carving Petitioners' challenges from that dispute would not help drive resolution of the dispute, and Petitioners have not explained any efficiencies that would arise from the Board issuing a final written decision many months after the district court trial. There is no reason to go forward with Petitioner's challenges.

Dated: March 28, 2025

/Wayne M. Helge/

Wayne M. Helge, Reg. No. 56,905

James T. Wilson, Reg. No. 41,439

BUNSOW DE MORY LLP

277 S. Washington St., Suite 210 #1088

Alexandria, VA 22314

T: (571) 208-0186

Email: whelge@bdiplaw.com

Email : jwilson@bdiplaw.com

Lead Counsel for Pegasus Wireless
Innovation LLC

CERTIFICATE OF SERVICE

Petitioner has consented to e-mail service in this proceeding. Pursuant to 37 C.F.R. §42.6, the undersigned certifies that on this date, a copy of the foregoing document was served by email upon the following counsel at the below email addresses:

ALSTON & BIRD LLP

Christopher TL Douglas – christopher.douglas@alston.com

Ross R. Barton – ross.barton@alston.com

S. Benjamin Pleune – ben.pleune@alston.com

J. Ravindra Fernando – ravi.fernando@alston.com

David S. Frist – david.frist@alston.com

Tyler P. Espy – tyler.espy@alston.com

Jason E. Spotts – jason.spotts@alston.com

Pegasus-IPRs@alston.com

Dated: March 28, 2025

/Wayne M. Helge/

Wayne M. Helge (Reg. No. 56,905)

BUNSOW DE MORY LLP

277 S. Washington St., Suite 210, #1088

Alexandria, VA 22314

Email: whelge@bdiplaw.com

Telephone: 571-208-0186

Lead Counsel for Pegasus Wireless
Innovation LLC