

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ITRON NETWORKED SOLUTIONS, INC.,
Petitioner,

v.

ACOUSTIC TECHNOLOGY, INC.,
Patent Owner.

Case IPR2017-01030
Patent 5,986,574

Before THU A. DANG, JOSIAH C. COCKS, and
PATRICK M. BOUCHER, *Administrative Patent Judges*.

DANG, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
Inter Partes Review
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

A. Background

Silver Spring Networks, Inc.¹ filed a Petition requesting an *inter partes* review of claims 1–3, 6, 8, 9, 11, 16, 17, 20, 23, 25, and 27–30 of U.S. Patent No. 5,986,574 (Ex. 1001, “the ’574 patent”). Paper 1 (“Pet.”). We instituted trial to determine whether claims 1–3, 6, 8, 9, 11, 16, 17, 20, 23, 25, and 27–30 are unpatentable under 35 U.S.C. § 103 based on *Argyroudis*² either alone or in combination with *Selph*.³ See Paper 9, 28 (“Institution Decision” or “Inst. Dec.”). After institution of trial, Acoustic Technology, Inc. (“Patent Owner”), filed a Patent Owner Response. Paper 25 (“PO Resp.”). Petitioner replied. Paper 33 (“Pet. Reply”).

Petitioner filed a Motion to Exclude Evidence. Paper 37 (“Pet. Mot.”). Patent Owner filed an Opposition to Petitioner’s Motion to Exclude Evidence. Paper 41. Petitioner then replied to the Opposition to the Motion to Exclude Evidence. Paper 45.

Oral argument was conducted on June 4, 2018. A transcript of that argument is entered in the record. See Paper 47 (“Tr.”).

We have jurisdiction under 35 U.S.C. § 6. This decision is a Final Written Decision under 35 U.S.C. § 318(a) as to the patentability of claims 1–3, 6, 8, 9, 11, 16, 17, 20, 23, 25, and 27–30 of the ’574 patent. For the

¹ As a result of a reorganization, the petitioner in this proceeding changed from Silver Spring Networks, Inc. to Itron Networked Solutions, Inc. during the course of the proceeding. Paper 29. We refer collectively to these entities herein as “Petitioner.”

² U.S. 5,892,758 (issued Apr. 6, 1999) (“Argyroudis”; Ex. 1007).

³ U.S. 4,804,957 (issued Feb. 14, 1989) (“Selph”; Ex. 1008).

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reasons discussed below, we hold that Petitioner has demonstrated by a preponderance of the evidence that claims 1–3, 6, 8, 9, 11, 16, 17, 20, 23, 25, and 27–30 of the '574 patent are unpatentable under 35 U.S.C. § 103(a).

Furthermore, Petitioners' Motion to Exclude Evidence is dismissed as moot.

B. Related Proceedings

The '574 patent is the subject of a pending district court case captioned *Acoustic Technology, Inc. v. Silver Spring Networks, Inc.*, No. 2:16-cv-00831-JRG-RSP (E.D. Tex.). Pet. 1; Paper 5, 2. An *inter partes* review was instituted for claims 16, 17, 20, 23, 25, and 27–30 of the '574 patent (IPR2017-01031). Also, an *inter partes* review was instituted for claim 8 of U.S. Patent No. 6,509,841 (IPR2017-01024), which issued from a continuation application claiming priority to the '574 patent.

C. The '574 Patent

The '574 patent issued November 16, 1999, from an application filed October 16, 1997. Ex. 1001, at [45] and [22]. The '574 patent is directed to a communication system “suitable for use by a utility provider to monitor a plurality of metering devices from a remote location,” and describes a concentrator within the communication system operably connected to a control and a metering group for transmitting data between the control and the metering group. *Id.* at Abstract. Figure 1, reproduced below, illustrates an embodiment of a communication system.

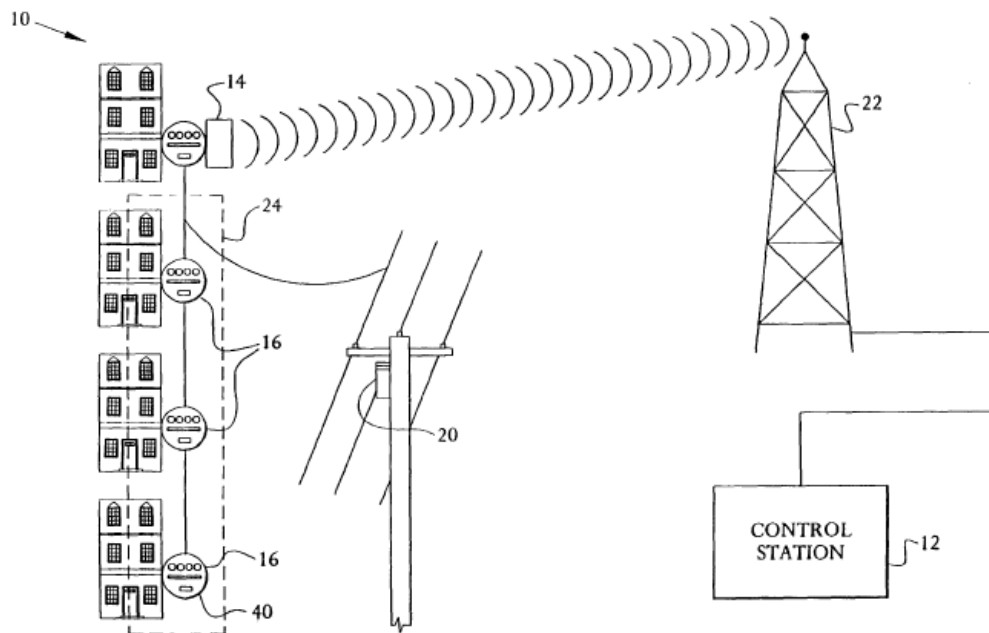
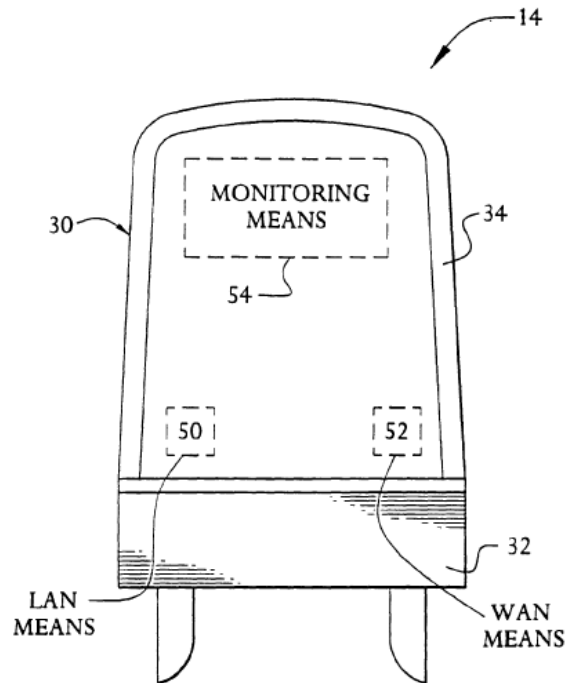


FIG. 1

Figure 1 depicts a communication system 10, comprising control means 12, relay means 14 in communication with the control means, and servicing means 16 in communication with the relay means, wherein, in one embodiment, communication system 10 is adapted for use in a utility provider for customer information. *Id.* at 2:23–37. In a preferred embodiment, each of servicing means 16 comprises a metering device located at the site of the customer of the utility provider, and includes means for measuring an amount of usage of a utility for the specific location to which metering device 16 is connected. *Id.* at 4:11–22. Metering devices 16 are each connected via power lines to relay means 14. *Id.* at 4:33–35.

Preferably, relay means 14 comprises a concentrator in the form of a meter and positioned at the location of a customer. *Id.* at 4:65–67. Figure 2, reproduced below, depicts an embodiment of concentrator meter 14 of Figure 1. *Id.* at 4:67–5:2.



As shown in Figure 2, concentrator meter 14 preferably includes LAN means 50 for receiving and transmitting data over the local area network, WAN means 52 for communicating data over the wide area network with control means 12 (Figure 1), and monitoring means 54 for measuring an amount of usage of a utility at a given location. *Id.* at 5:2–20. Concentrator meter 14 preferably also includes housing 30 having an inner cavity into which the components of concentrator meter 14 are mounted, such as LAN means 50, WAN means 52, and monitoring means 54. *Id.* at 5:33–41. Relay means 14, when in the form of concentrator meter 14, provides for greater efficiency since features of a meter and relay means between metering devices 16 and control means 12 (Figure 1) are combined into a single unit, which can be provided directly at a customer location. *Id.* at 7:13–19.

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