

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PANDUIT CORP.,
Petitioner,

v.

CCS TECHNOLOGY, INC.,
Patent Owner.

Case IPR2017-01323
Patent 6,758,600 B2

Before JONI Y. CHANG, JENNIFER S. BISK, and
DANIEL J. GALLIGAN, *Administrative Patent Judges*.

GALLIGAN, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
Inter Partes Review
35 U.S.C. § 318(a)

I. INTRODUCTION

In this *inter partes* review, Panduit Corp. (“Petitioner”) challenges the patentability of claims 3 and 4 of U.S. Patent No. 6,758,600 B2 (“the ’600 patent”), which was assigned to CCS Technology, Inc. (“Patent Owner”).

We have jurisdiction under 35 U.S.C. § 6. This Final Written Decision, issued pursuant to 35 U.S.C. § 318(a), addresses issues and arguments raised during the trial in this *inter partes* review. For the reasons discussed below, we determine that Petitioner has proven by a preponderance of the evidence that claims 3 and 4 of the ’600 patent are unpatentable. *See* 35 U.S.C. § 316(e) (“In an *inter partes* review instituted under this chapter, the petitioner shall have the burden of proving a proposition of unpatentability by a preponderance of the evidence.”).

A. Procedural History

On May 1, 2017, Petitioner requested *inter partes* review of claims 3 and 4 of the ’600 patent. Paper 2 (“Pet.”). Patent Owner filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). We instituted trial on the sole ground of unpatentability, namely Petitioner’s assertion that claims 3 and 4 are unpatentable under 35 U.S.C. § 103(a) as obvious over the combined teachings of Eichenberger¹ and Bennett.² Paper 8 (“Dec. on Inst.”), 22. During the trial, Patent Owner filed a Response (Paper 14, “PO Resp.”), and Petitioner filed a Reply (Paper 16, “Pet. Reply”). An oral hearing was held on July 18, 2018, a transcript of which appears in the record. Paper 22 (“Tr.”).

¹ US 7,021,837 B2, filed Feb. 20, 2001, issued Apr. 4, 2006 (Ex. 1004).

² US 5,915,055, issued June 22, 1999 (Ex. 1005).

B. Real Parties in Interest

Patent Owner indicates that Corning Optical Communications LLC (“Corning”) is a real party in interest by virtue of CCS’s assignment of “all substantial rights in the ’600 patent to Corning.” Paper 4, 1.

C. Related Matters

The parties indicate that the ’600 patent is at issue in *Corning Optical Communications LLC v. Panduit Corp.*, No. 1:16-cv-00268-GMS (D. Del.). Pet. 1; Paper 4, 1. In IPR2016-01647, the Board issued a Final Written Decision as to claims 1 and 2 of the ’600 patent. IPR2016-01647, Paper 27. In IPR2016-01648, the Board issued a Final Written Decision as to claims 1–3 and 8–10 of related Patent 6,869,227 B2 (“the ’227 patent”). IPR2016-01648, Paper 27. We are concurrently issuing a Final Written Decision in IPR2017-01375 addressing claims 6, 7, and 11 of the ’227 patent.

D. The ’600 Patent

Claims 3 and 4 are directed to “[a]n optical assembly” having “at least two optical interconnection modules.” Although the ’600 patent describes an optical module having a particular fiber routing scheme (*see* Ex. 1001, Fig. 2), claims 3 and 4 do not require optical modules having any particular internal routing scheme. *See* Dec. on Inst. 9 (“[I]ndependent claim 3 is directed to a particular ‘optical assembly’ configuration but does not require the optical interconnection module configuration recited in claim 1.”).

The ’600 patent illustrates optical assemblies in Figures 3 and 4. *See* Ex. 1001, 2:30–33, 3:44–4:11. Figure 3 is reproduced below.

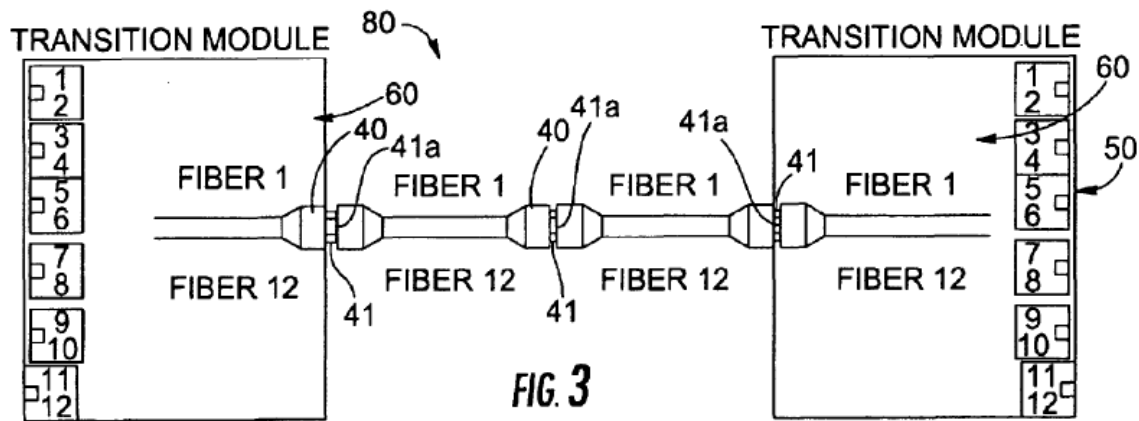


Figure 3 depicts “a schematic view of a first optical assembly according to the present invention.” Ex. 1001, 2:30–31. The ’600 patent explains:

In system[] 80, . . . the polarity is not reversed, fibers one through twelve are not flipped between the modules. In other words, the optical paths are not flipped at the adapters or other position between the modules. For example, the optical path remains with its color, blue stays with blue (1-1), orange with orange (2-2), green with green (3-3), and so on, from one module to another including the connectors 40 externally of the modules 60.

Ex. 1001, 3:50–57.

E. Claims at Issue

Claims 3 and 4 are reproduced below.

3. An optical assembly, comprising:
 - (a) at least two optical interconnection modules;
 - (b) said modules being optically interconnected by optical paths, said optical paths being established through connectors and adapters having respective keys being positioned in the same place on the connectors, and optical fiber ribbons;
 - (c) said connectors and adapters being mated with keys in the same relative position; and
 - (d) polarity of the optical fibers located externally of the modules is not reversed, such that at least some of said optical paths remain with their respective color, blue is in optical communication with blue (fibers 1-1), orange with orange (fibers

2-2), green with green (fibers 3-3), and so on, from one module to another.

4. The optical assembly of claim 3, wherein all of said optical paths remain with their respective color from one module to another.

II. ANALYSIS

A. *Level of Ordinary Skill in the Art*

Citing the testimony of its declarant, Dr. Casimer DeCusatis, Petitioner argues that the level of ordinary skill in the art is “(a) a Bachelor’s degree in Electrical Engineering or similar, with at least 5 years of experience designing fiber optic cassettes or harnesses; or (b) a Master’s degree in Electrical Engineering or similar, with at least 3-5 years of experience designing fiber optic cassettes or harnesses.” Pet. 9 (citing Ex. 1003 ¶¶ 11–19).

Patent Owner, citing the testimony of its declarant, Mr. Eric Pearson, argues that “[a] person of ordinary skill in the art of the ’600 patent would have a bachelor’s degree in mechanical engineering, materials science, or a related field; and 2 years of experience in fiber optic equipment design.” PO Resp. 1 (citing Ex. 2001 ¶¶ 14–15).

Although there are differences between the proposed levels of ordinary skill in the art, the parties and their declarants agree that an ordinarily skilled artisan would have had a four-year technical degree and some amount of professional experience with fiber optic equipment. Based on the evidence of record, including the testimony of the parties’ declarants, the subject matter at issue, and the prior art of record, we determine that the skill level of a person of ordinary skill in the art would have been that of a

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.