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Paper 23
Entered: October 4, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PANDUIT CORP.,
Petitioner,

v.

CCS TECHNOLOGY, INC.,
Patent Owner.

Case IPR2017-01375
Patent 6,869,227 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 6, 7, and 11 of U.S. Patent No. 6,869,227 B2 ("the '227 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 6, 7, and 11 of the '227 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 5, 2017, Petitioner requested *inter partes* review of claims 6, 7, and 11 of the '227 patent. Paper 2 ("Pet."). Patent Owner filed a Preliminary Response. Paper 7 ("Prelim. Resp."). We instituted trial on all grounds of unpatentability, which are as follows:

1. Whether claim 6 is unpatentable under 35 U.S.C. § 103(a) as having been obvious over Toyooka,[1] Eichenberger,[2] and Giebel;[3]

2. Whether claim 7 is unpatentable under 35 U.S.C. § 103(a) as

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[1] JP H11-160542, published June 18, 1999 (Ex. 1004). Petitioner also filed Toyooka as Exhibit 1007 with a declaration by the translator to address a deficiency noted in our Decisions on Institution. *See* Dec. on Inst. 6 n.1. Because the parties cite Toyooka as Exhibit 1004 in these matters, we also cite Toyooka as Exhibit 1004 for consistency in the record.
[2] US 7,021,837 B2, filed Feb. 20, 2001, issued Apr. 4, 2006 (Ex. 1005).
[3] US 6,149,313, issued Nov. 21, 2000 (Ex. 1006).

having been obvious over Toyooka and Eichenberger; and

3. Whether claim 11 is unpatentable under 35 U.S.C. § 103(a) as having been obvious over Toyooka and Giebel.

Paper 8 ("Dec. on Inst."), 38.

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.").

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 '227 patent to Corning." Paper 5, 1.

C. Related Matters

The parties indicate that the '227 patent is at issue in *Corning Optical Communications LLC v. Panduit Corp.*, No. 1:16-cv-00268-GMS (D. Del.). Pet. 1; Paper 5, 1. In IPR2016-01648, the Board issued a Final Written Decision as to claims 1–3 and 8–10 of the '227 patent. IPR2016-01648, Paper 27. In IPR2016-01647, the Board issued a Final Written Decision as to claims 1 and 2 of related Patent 6,758,600 B2 ("the '600 patent"). IPR2016-01647, Paper 27. We are concurrently issuing a Final Written Decision in IPR2017-01323 addressing claims 3 and 4 of the '600 patent.

D. The '227 Patent

The '227 patent generally relates to optical modules having a particular interconnection scheme. Ex. 1001, [57]. Figure 2 is reproduced below:

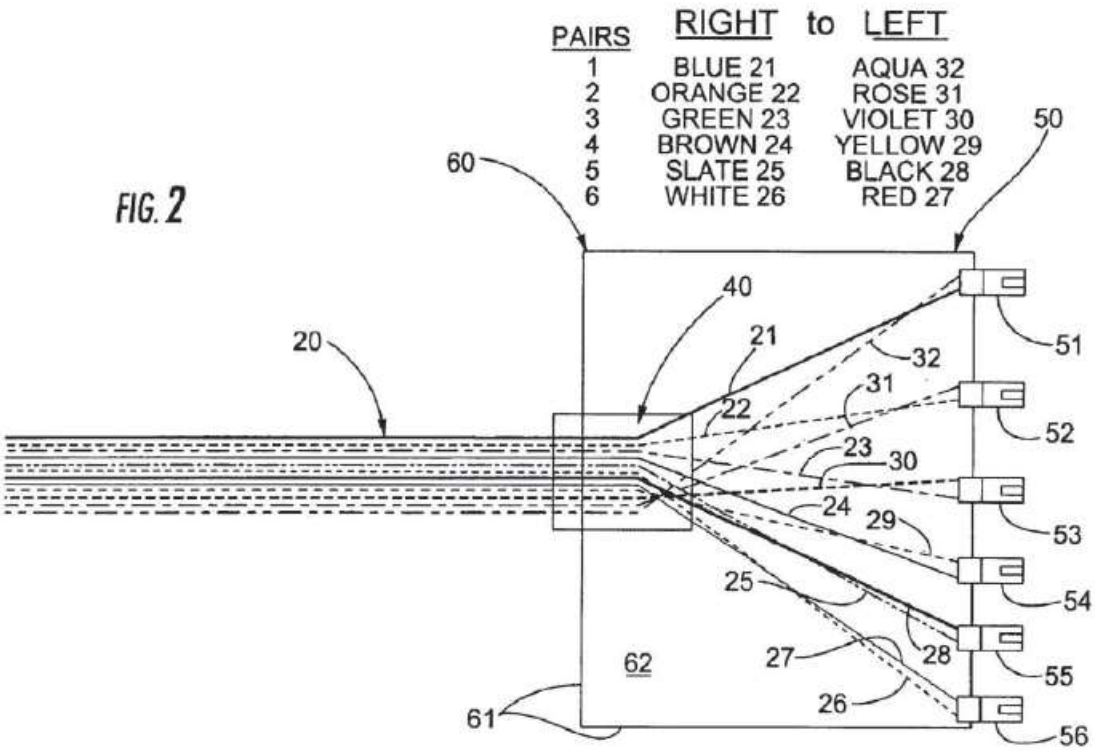

Figure 2 "illustrates an exemplary fiber wiring scheme for routing of optical fibers from connector 40 to single or multi-fiber connectors located at connector stations 51–56, defined at a break-out section 50 of module 60." Ex. 1001, 3:14–17. The '227 patent explains that "the optical paths of connector 40 and the optical connectors at stations 51–56 are optically interconnected by optical fibers disposed in cavity 62 of the module 60, the fiber pairs being formed by the optical fibers." Ex. 1001, 3:30–34. As illustrated in Figure 2 and explained in the '227 patent, fiber pairs are defined within the cavity of the module such that the fiber optically connected to the first fiber from ribbon 20 is paired with the fiber optically connected to the last fiber at connector station 51, and then the fiber optically connected to the next fiber in ribbon 20 is paired with the fiber optically connected to the next-to-last fiber in ribbon 20 at connector station

52, and so on. *See* Ex. 1001, 3:25–27 ("With reference to FIG. 2, the fiber pairs are defined as follows: 21–32; 22–31; 23–30; 24–29; 25–28; and 26–27.").

The '227 patent also describes particular optical assemblies, which are depicted in Figures 3 and 4. *See* Ex. 1001, 2:36–39, 3:55–4:23. Figure 3 is reproduced below.

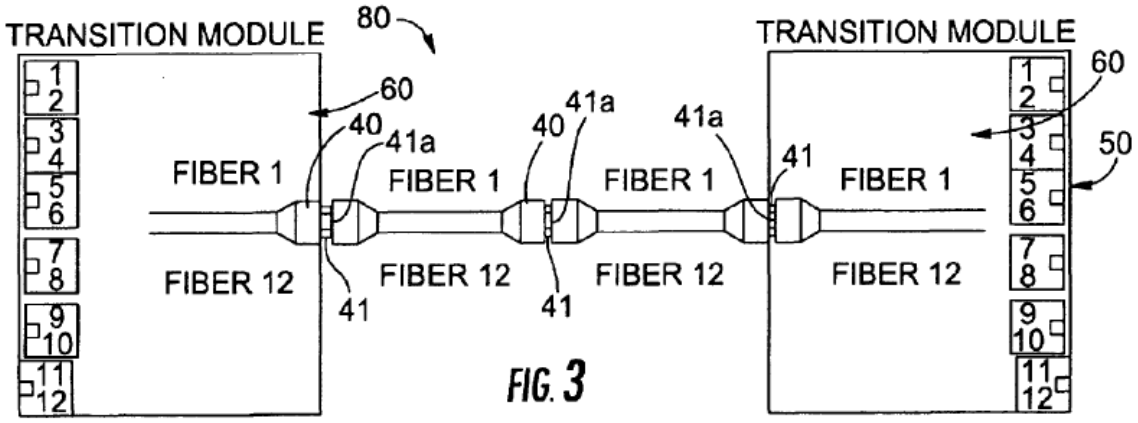

Figure 3 depicts "a schematic view of a first optical assembly according to the present invention." Ex. 1001, 2:36–37. The '227 patent explains:

> 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, 3:62–4:2.

E. Claims at Issue

Claim 6 depends from claim 3, and claim 11 depends from claim 1. Claim 7 is independent. Claims 1 and 11, claims 3 and 6, and claim 7 are reproduced below.

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