IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

TOSHIBA CORPORATION,   )
)
          Plaintiff,   )
)
     v.   ) Civ. No. 03-1035-SLR
)
JUNIPER NETWORKS, INC.   )
)
          Defendant.   )

MEMORANDUM ORDER

At Wilmington this 28th day of June, 2006, having heard

oral argument and having reviewed the papers submitted in

connection with the parties' proposed claim construction;

IT IS ORDERED that the disputed claim language in U.S.

Patent Nos. 5,835,710 ("the '710 patent"), 6,341,127 ("the '127

patent"), 6,343,322 ("the '322 patent"), and 6,598,080 ("the '080

patent"), as identified by the above referenced parties, shall be

construed consistent with the tenets of claim construction set

forth by the United States Court of Appeals for the Federal

Circuit in Phillips v. AWH Corp., 415 F.3d 1303 (Fed. Cir. 2005),

as follows:

1.   **"Virtual connection"**[1] and **"virtual path"**[2]: A logical

connection between two nodes of an ATM network. The patent

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[1]Claims 11, 12, 14 and 17 of the '710 patent; claims 5, 7
and 8 of the '322 patent.

[2]Claim 3 of the '080 patent.

specifications of the '710 and '322 patents describe the use of ATM virtual connections for transferring packets without the need to carry out any network layer processing on the packets.[3] The parties agree that the term "virtual path" from the '080 patent should be construed in a manner consistent with the construction of "virtual connection" from the '710 and '322 patents.

2. **"Logical network"**[4]: A subnetwork in a network. The specification of the '710 patent describes "logical network" as referring to "a network than can be handled logically as a single entity, regardless of a physical configuration."[5] Consistent with both this description and its use in the '710 and '080 patents, the "logical network" limitation represents a network that is part of a larger network.

3. **"Available for receiving [transmitting] a packet"**[6]: Existing to receive [transmit] the packet. This construction is supported by the language of the claims themselves, which requires that a first virtual connection exists to a first node that is available to carry a packet to that first node and a second virtual connection exists to a second node that is

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[3] '710 patent, col. 3, l. 64 - col. 4, l. 14.

[4] Claims 11, 12, 14 and 17 of the '710 patent; claim 3 of the '080 patent.

[5] '710 patent, col. 8, ll. 25-27.

[6] Claims 11, 12, 14 and 17 of the '710 patent.

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available to carry a packet to that second node.[7]

4.   **"Specification information"**[8]: Information that is common to a group of packets. The claims and specification of the '322 patent demonstrate that the specification information relates to the path that the packets traverse and not to the packets themselves.[9]

5.   **"Identification information for a desired virtual connection"**[10] and **"identification information for identifying an [a] upstream [downstream] path"**[11]: Information that identifies an existing upstream [downstream] connection. The specifications of the '322 and '710 patents establish that the "identification information" of these limitations identifies an existing connection.[12]

6.   **"Plurality of networks"**[13]: Two or more ATM networks.

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[7]'710 patent, col. 50, ll. 50-55.

[8]Claims 1, 2, 4, 5, 7, 8, 11, 12, 13, 14, 17 and 22 of the '322 patent.

[9]See, e.g., '322 patent, col. 18, ll. 55-62; see also '322 patent, col. 45, ll. 35-38.

[10]Claim 12 of the '710 patent.

[11]Claims 1, 2, 4, 5, 7, 8, 11, 12, 13, 14, 17 and 22 of the '322 patent.

[12]See '710 patent, col. 5, ll. 38-52; '710 patent, col. 5, l. 66 - col. 6, l. 10.; '322 patent, col. 8, ll. 32-39.

[13]Claims 1, 2, 4, 5, 7, 8, 11, 12, 13, 14, 17 and 22 of the '322 patent.

The invention of the '322 patent is consistently described in terms of the use of signaling to select virtual connections in order to connect ATM networks.[14] The parties agree that "plurality" means "two or more."

7. **"Layer"**[15]: A layer in the Open System Interconnection (OSI) protocol layer stack. The specifications of the '322 and '710 patents describe a layer in terms of the OSI protocol layer stack.[16]

8. **"Packet[s]"**[17]: Unit[s] of data having a generally accepted format for transmission from one device to another. The construction is agreed on by both parties.

9. **"Information for specifying a destination address of a packet"**[18]: Information that specifies a destination address of a packet. The construction is agreed on by both parties.

10. **"Router device"**[19]: A device capable of transmitting

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[14]'322 patent, col. 1, l. 1 - col. 44, l. 22.

[15]Claims 11, 12, 14 and 17 of the '710 patent; claims 1, 2, 4, 5, 7, 8, 11, 12, 13, 14, 17 and 22 of the '322 patent.

[16]'322 patent, col. 1, ll. 38-42, 49-50; '322 patent, col. 2, ll. 51-52; '710 patent, col. 1, ll. 36-43; '710 patent, col. 2, ll. 50-55.

[17]Claims 11, 12, 14 and 17 of the '710 patent; claims 1, 2, 4, 5, 7, 8, 11, 12, 13, 14, 17 and 22 of the '322 patent; claim 3 of the '080 patent; claims 14, 15, 17, 18 and 29 of the '127 patent.

[18]Claims 11, 12, 14 and 17 of the '710 patent.

[19]Claims 14, 15, 17, 18 and 29 of the '127 patent.

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and receiving packets, including ATM cells, frame relay frames,
or frames to which label headers of some other format are
attached. The parties agree that the term "router device" does
not have a commonly understood meaning in the art. The
specification of the '127 patent defines "router device" in a
manner consistent with the above construction.[20] Furthermore,
the asserted claims of the '127 patent provide further guidance
in reaching the construction for "router device."[21]

11. **"Label"**[22]: An identifier. The construction is agreed
on by both parties.

12. **"Neighboring node/network"**[23]: A node or network that
is connected by a logical link or by a direct physical link. The
construction is agreed on by both parties.

13. **"Policy information indicating a permitted neighboring
node/network from which a packet transfer by the label switching
is to be permitted"**[24]: Information indicating an upstream
neighboring node/network from which packet transfer by label
switching is to be permitted. The specification of the '127

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[20] '127 patent, col. 7, ll. 44-51.

[21] '127 patent, col. 30, ll. 1-35, 45-56; '127 patent, col.
33, ll. 7-29.

[22] Claims 14, 15, 17, 18 and 29 of the '127 patent.
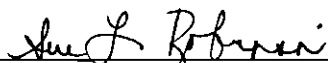
[23] Claims 14, 15, 17, 18 and 29 of the '127 patent.

[24] Claims 14, 15, 17, 18 and 29 of the '127 patent.

patent, in describing a permitted neighboring node/network, is consistent with this construction.[25]

14. **"Request message for requesting a set up of a requested label switching path"**[26]: A message requesting the set up of a label switching path. The construction is agreed on by both parties.

15. **"Stream information"**[27]: Information that is common to a stream of packets. The limitation is used in the specification of the '127 patent in a manner consistent with this construction.[28]

16. **"When the set up of the requested label switching path is judged as [not] permitted"**[29]: Upon judging whether to permit the set up of the requested label switching path. The construction is agreed on by both parties.

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United States District Judge

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[25]'127 patent, col. 12, ll. 17-65.

[26]Claims 14, 15, 17, 18 and 29 of the '127 patent.

[27]Claims 14, 15, 17, 18 and 29 of the '127 patent.

[28]See, e.g., '127 patent, col. 2, l. 54 - col. 3, l. 12;'127, col. 18, ll. 22-29, 54-59; '127 patent, col. 19, ll. 31-35.

[29]Claims 14, 15, 17, 18 and 29 of the '127 patent.