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[Your Name]

[Your Title]

[Your Company]

[Street Address, City, State ZIP]

May 14, 2026

[Opposing Counsel Name]

[Firm Name]

[Address]

**Re: U.S. Patent No. 10404366 — Response to Assertion of Infringement**

Dear Counsel,

We acknowledge receipt of your correspondence asserting infringement of U.S. Patent No. 10404366 (the "10404366 Patent"). After preliminary review, we have substantial concerns about the validity, enforceability, and scope of the asserted claims, summarized below. We reserve all rights and defenses.

## **1. Subject Patent — Summary**

Summary of U.S. Patent 10,404,366

A concise summary of U.S. Patent 10,404,366 is provided below, including details on the title, assignee, inventor, key dates, abstract, and a plain-language overview of the independent claims. No records of litigation in the CAFC dockets for 2026 concerning this specific patent were found as of the date of this analysis.

Title: Optical signal monitor, optical wavelength multiplexing transmitter, and method for monitoring optical signal

Assignee: As of the latest assignment recorded on October 1, 2025, the assignee for US Patent 10,404,366 is RADIANT PATENTS LLC. The original assignee was NEC Corp.

Inventor: Yoshirou Satou

Filing Date: July 19, 2018...

## **2. Validity Concerns under 35 U.S.C. § 102 — Prior Art**

We have identified prior-art references that, in our preliminary view, anticipate one or more asserted claims of the 10404366 Patent:

Relevant Prior Art for U.S. Patent 10,404,366

This analysis details the prior art cited during the prosecution of U.S. Patent 10,404,366. Each

reference is examined for its potential to anticipate the claims of the patent under 35 U.S.C. § 102. The core of the invention in patent '366 is the use of different threshold values for different wavelength bands to control the insertion of dummy light in a wavelength-division multiplexing (WDM) system, particularly one with mixed signal grids.

The following prior art references were cited by the examiner during the patent's prosecution.

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1. US 2014/0286635 A1 (Fujitsu Limited)

- Full Citation: US Patent Application Publication No. US 2014/0286635 A1
- Publication Date: September 25, 2014
- Filing Date: March 25, 2013
- Brief Description: This application describes an optical transmission apparatus that inserts dummy light to compensate for dropped or failed signal channels in a WDM system. It discloses monitoring the power of the multiplexed signal and, if a channel is lost, inserting dummy light with a power level equivalent to...

### **3. Obviousness under 35 U.S.C. § 103**

Independent of § 102, we believe the asserted claims are obvious in view of combinations of prior art that a person having ordinary skill in the art would have been motivated to combine:

Analysis of Obviousness under 35 U.S.C. § 103

Under 35 U.S.C. § 103, a patent claim is invalid as "obvious" if the differences between the claimed invention and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art (PHOSITA). This analysis considers whether the key limitations of U.S. Patent 10,404,366 ('366) would have been obvious by combining the teachings of the prior art references cited during its prosecution.

The central inventive concept of the '366 patent, as defined in independent claims 1 and 10, is the control of dummy light in a WDM system by monitoring optical intensity and comparing it against a plurality of threshold values, where these thresholds are different for different wavelength bands. This approach is particularly useful for mixed-grid systems where channel characteristics are not uniform across the spectrum.

Based on the provided prior art, a strong case for obviousness can be made by combining a primary reference teaching dummy light insertion with...

### **4. Request**

In light of the foregoing, we request that your client (i) provide a detailed claim chart identifying each accused product or service and mapping every limitation of each asserted claim, (ii) identify any prior art known to your client, including any references cited during prosecution or reexamination, and (iii) substantiate the basis for any damages or licensing demand. We are prepared to discuss the matter further once we have received and reviewed the foregoing.

Sincerely,

**[Your Name]**

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