

Filed on behalf of Intellectual Pixels Limited

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY INTERACTIVE ENTERTAINMENT LLC,
Petitioner,

v.

INTELLECTUAL PIXELS LIMITED,
Patent Owner.

Case No. IPR2021-00237
U.S. Patent No. 10,681,109

PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE

I. INTRODUCTION

Pursuant to the Federal Rules of Evidence (“FRE”) and 37 C.F.R. § 42.64(b)(1), Patent Owner Intellectual Pixels Limited (“IPL”) timely objects to the evidence submitted by Petitioner Sony Interactive Entertainment LLC (“Sony”) in this proceeding. Patent Owner may move to exclude the challenged exhibits under 37 C.F.R. § 42.64(c) unless Petitioner provides evidence curing the objections identified by Patent Owner below.

II. SPECIFIC OBJECTIONS

A. Exhibit 1024 – “Pictures of devices”

Patent Owner objects to Exhibit 1024 under FRE 401-403 because Exhibit 1024 is not relevant to any issue in the IPR. Petitioner filed Exhibit 1024 with its Reply (Paper 22), but neither Petitioner nor its declarant cite or refer to Exhibit 1024 for any purpose. Thus, Exhibit 1024 is irrelevant and should be excluded.

Patent Owner further objects to Exhibit 1024 under FRE 901 because Petitioner has not produced any evidence “sufficient to support a finding that the item is what the proponent claims it is.” FRE 901(a).

Patent Owner further objects to Exhibit 1024 because it is not a document. Instead, Exhibit 1024 appears to be a collection of pictures or images compiled by Petitioner’s counsel from unspecified sources.

Patent Owner further objects to Exhibit 1024 under FRE 1002 because Petitioner has not provided an original copy of the underlying content and has not resolved all questions about the authenticity of the exhibit's contents.

Patent Owner further objects to Exhibit 1024 under FRE 106 because Petitioner has only provided excerpts consisting of pictures or images from unspecified sources and has not made available full copies of the underlying content to Patent Owner.

B. Exhibit 1026 – Wang

Patent Owner objects to Exhibit 1026 under FRE 901 because Petitioner has not produced any evidence “sufficient to support a finding that the item is what the proponent claims it is.” FRE 901(a).

Patent Owner further objects to Exhibit 1026 under FRE 802 because the exhibit contains hearsay, is relied upon for the truth of the matters asserted therein, and is not subject to any exception. For example, Petitioner relies on the “May 2000” date in Exhibit 1026 for the truth of the matter to assert that Exhibit 1026 is “[e]xtrinsic evidence close in time to the ’109 patent’s priority date.” Paper 22 at 11.

C. Exhibit 1029 – Ahamed

Patent Owner objects to Exhibit 1029 because the evidence is improper reply evidence that was not submitted with the Petition and is not part of any ground in this IPR, and that is being relied upon in Petitioner’s Reply (*see, e.g.*, Paper 22 at

26) to support a new invalidity theory that should have been disclosed and/or raised in the Petition. *See* 37 C.F.R. § 42.23(b); Consol. Trial Practice Guide (Nov. 2019) at 73-74.

D. Exhibit 1030 – Kompatsiaris

Patent Owner objects to Exhibit 1030 because the evidence is improper reply evidence that was not submitted with the Petition and is not part of any ground in this IPR, and that is being relied upon in Petitioner’s Reply (*see, e.g.*, Paper 22 at 26) to support a new invalidity theory that should have been disclosed and/or raised in the Petition. *See* 37 C.F.R. § 42.23(b); Consol. Trial Practice Guide (Nov. 2019) at 73-74.

E. Exhibit 1033 – Reply Declaration of Dr. Henry Fuchs

Patent Owner objects to Exhibit 1033 under FRE 701-705 and 802 because Dr. Fuchs has not been made available for deposition. Patent Owner reserves the right to raise any additional objections that become apparent from Dr. Fuchs’ deposition at that time if he is made available for deposition.

Patent Owner further objects to Exhibit 1033 because the evidence is improper reply evidence that raises new invalidity theories that should have been disclosed and/or raised in the Petition. *See* 37 C.F.R. § 42.23(b); Consol. Trial Practice Guide (Nov. 2019) at 73-74. For example, Patent Owner objects to paragraphs 63 and 79

of Exhibit 1033 because they articulate new theories of invalidity not presented in the Petition or Dr. Fuchs’ original declaration (Exhibit 1002).

F. Exhibit 1037 – PC Magazine Encyclopedia

Patent Owner objects to Exhibit 1037 under FRE 901 because Petitioner has not produced any evidence “sufficient to support a finding that the item is what the proponent claims it is.” FRE 901(a).

Patent Owner further objects to Exhibit 1037 because the evidence is improper reply evidence that was not submitted with the Petition and is not part of any ground in this IPR, and that is being relied upon by Petitioner (*see, e.g.*, EX1033 ¶ 63; Paper 22 at 21) to support a new invalidity theory that should have been disclosed and/or raised in the Petition. *See* 37 C.F.R. § 42.23(b); Consol. Trial Practice Guide (Nov. 2019) at 73-74.

ARMOND WILSON LLP

Dated: November 30, 2021

By: /Douglas R. Wilson/

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CERTIFICATE OF SERVICE

The undersigned certifies that pursuant to 37 C.F.R. § 42.6(e), a true copy of the foregoing **PATENT OWNER’S OBJECTIONS TO PETITIONER’S EVIDENCE** is being served electronically on November 30, 2021 to the following lead and back-up counsel for Petitioner to the following email addresses:

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