

Case IPR2023-00274
U.S. Patent No. 8,713,289

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LZLABS GMBH,
Petitioner

v.

INTERNATIONAL BUSINESS MACHINES CORPORATION
Patent Owner

IPR2023-00274

U.S. Patent No. 8,713,289

**PATENT OWNER'S OBJECTIONS TO EVIDENCE SUBMITTED WITH
THE PETITION FOR *INTER PARTES* REVIEW**

Mail Stop Patent Board
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

International Business Machines Corporation (“IBM” or “Patent Owner”) hereby objects to the following evidence that was submitted by LzLabs GmbH (“LzLabs” or “Petitioner”) with the petition (“Pet.,” Paper 1) in the above-captioned proceeding. In accordance with 37 C.F.R. § 42.64(b)(1), these objections are being timely filed and served within ten (10) business days of the institution of the trial by the Patent and Trial Appeal Board (“Board”), which is reflected in the Board’s Institution Decision dated June 16, 2023 (Paper 7).

A. Exhibit 1008 (Enterprise Systems Architecture/390 Principles of Operation (“PoO”), SA22-7201-08, Ninth edition (June 2003))

IBM objects to Exhibit 1008 as lacking foundation and lacking authentication under FRE 901. IBM objects to this exhibit as containing hearsay to the extent that LzLabs attempts to rely on it to prove the truth of any matter described therein under FRE 801 and FRE 802. For example, LzLabs fails to offer sufficient evidence that Exhibit 1008 was publicly accessible in its presented form as of the alleged publication date. LzLabs fails to offer sufficient evidence that Exhibit 1008 is what LzLabs claims it to be.

IBM objects to the portions of Exhibit 1008 (e.g., pages or figures) not discussed or cited in the Petition, as not being relevant to any issue on which trial has been instituted. If the objected to material was not discussed or cited in the Petition, IBM has had no fair opportunity to respond to LzLabs’ unstated contentions (if any) regarding the same. Such information is irrelevant and its consideration

would be unfairly prejudicial to IBM. Accordingly, at least those pages and figures of Exhibit 1008 are objected to as not being relevant to any issue in this IPR.

B. Exhibit 1015 (Enterprise Systems Architecture/390 Principles of Operation, SA22-7201-06, Seventh Edition (July 1999))

IBM objects to Exhibit 1015 as lacking foundation and lacking authentication under FRE 901. IBM objects to this exhibit as containing hearsay to the extent that LzLabs attempts to rely on it to prove the truth of any matter described therein under FRE 801 and FRE 802. For example, LzLabs fails to offer sufficient evidence that Exhibit 1015 was publicly accessible in its presented form as of the alleged publication date. LzLabs fails to offer sufficient evidence that Exhibit 1015 is what LzLabs claims it to be.

IBM objects to the portions of Exhibit 1015 (e.g., pages or figures) not discussed or cited in the Petition, as not being relevant to any issue on which trial has been instituted. If the objected to material was not discussed or cited in the Petition, IBM has had no fair opportunity to respond to LzLabs' unstated contentions (if any) regarding the same. Such information is irrelevant and its consideration would be unfairly prejudicial to IBM. Accordingly, at least those pages and figures of Exhibit 1015 are objected to as not being relevant to any issue in this IPR.

C. Exhibit 1016 (IBM System/370 Principles of Operation, SA22-7085-07, First Edition (March 1983))

IBM objects to Exhibit 1016 as lacking foundation and lacking authentication under FRE 901. IBM objects to this exhibit as containing hearsay to the extent that LzLabs attempts to rely on it to prove the truth of any matter described therein under FRE 801 and FRE 802. For example, LzLabs fails to offer sufficient evidence that Exhibit 1016 was publicly accessible in its presented form as of the alleged publication date. LzLabs fails to offer sufficient evidence that Exhibit 1016 is what LzLabs claims it to be.

IBM objects to the portions of Exhibit 1016 (e.g., pages or figures) not discussed or cited in the Petition, as not being relevant to any issue on which trial has been instituted. If the objected to material was not discussed or cited in the Petition, IBM has had no fair opportunity to respond to LzLabs' unstated contentions (if any) regarding the same. Such information is irrelevant and its consideration would be unfairly prejudicial to IBM. Accordingly, at least those pages and figures of Exhibit 1016 are objected to as not being relevant to any issue in this IPR.

D. Exhibit 1025 (IBM System/360 Principles of Operation, Form A22-6821-0)

IBM objects to Exhibit 1025 as lacking foundation and lacking authentication under FRE 901. IBM objects to this exhibit as containing hearsay to the extent that LzLabs attempts to rely on it to prove the truth of any matter described therein under

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FRE 801 and FRE 802. For example, LzLabs fails to offer sufficient evidence that Exhibit 1025 was publicly accessible in its presented form as of the alleged publication date. LzLabs fails to offer sufficient evidence that Exhibit 1025 is what LzLabs claims it to be.

IBM objects to the portions of Exhibit 1025 (e.g., pages or figures) not discussed or cited in the Petition, as not being relevant to any issue on which trial has been instituted. If the objected to material was not discussed or cited in the Petition, IBM has had no fair opportunity to respond to LzLabs' unstated contentions (if any) regarding the same. Such information is irrelevant and its consideration would be unfairly prejudicial to IBM. Accordingly, at least those pages and figures of Exhibit 1025 are objected to as not being relevant to any issue in this IPR.

Dated: June 30, 2023

Respectfully submitted,

/Theodoros Konstantakopoulos/

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that a complete copy of the foregoing was served on counsel of record for the Petitioner by filing this document through P-TACTS and by sending this document via electronic mail to the following addresses:

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