

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KEYSIGHT TECHNOLOGIES, INC.,
Petitioner,

v.

CENTRIPETAL NETWORKS, INC.,
Patent Owner.

IPR2023-00445

U.S. Patent 10,785,266

**PETITIONER'S OBJECTIONS TO EVIDENCE
UNDER 37 C.F.R. § 42.64(b)(1)**

Pursuant to 37 C.F.R. §§ 42.64(b)(1), the Board's July 24, 2023 Institution Decision (Paper 10), the Board's Scheduling Order (Paper 11), and the Federal Rules of Evidence ("FRE"), Keysight Technologies, Inc. ("Petitioner") objects to the following exhibits submitted by Centripetal Networks, Inc. ("Patent Owner") with its Patent Owner's Preliminary Response ("POPR") on April 26, 2023 (Paper 7)¹:

- Exhibit 2009 (Law Insider Webpage – Network Access Device definition)
- Exhibit 2010 (Excerpts from Microsoft Computer Dictionary – "Internet" (5th ed. 2002))
- Exhibit 2011 (Excerpts from The American Heritage Dictionary "Firm" (4th ed. 2001))

Ex. 2009 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate Exhibit 2009 to show that it is what Patent Owner claims it is. Accordingly, by failing to authenticate this exhibit it is inadmissible under FRE 901.

Further, Ex. 2009 is inadmissible under FRE 403. Any probative value of the exhibit is substantially outweighed by unfair prejudice, confusing the issues, and/or wasting time. Moreover, any alleged value is outweighed by the danger of misleading the fact finder because it is relied upon to define the term "network access

¹ Petitioner's objections are timely under 37 C.F.R. § 42.64(b)(1) because they are filed within ten (10) business days of the institution of the trial.

device.” To support this definition, Patent Owner relies on extrinsic evidence, “Law Insider Webpage,” that confuses and misleads the actual disclosure of the art of record. (POPR at 33-34). Accordingly, reliance on this evidence will mislead the fact finder and confuse the issues set forth in this proceeding.

Ex. 2010 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate Exhibit 2010 to show that it is what Patent Owner claims it is. Accordingly, by failing to authenticate this exhibit it is inadmissible under FRE 901.

Further, Ex. 2010 is inadmissible under FRE 403. Any probative value of the exhibit is substantially outweighed by unfair prejudice, confusing the issues, and/or wasting time. Moreover, any alleged value is outweighed by the danger of misleading the fact finder because it is relied upon to define the term “internet.” To support this definition, Patent Owner relies on extrinsic evidence, “Microsoft Computer Dictionary,” that confuses and misleads the actual disclosure of the art of record. (POPR at 34). Accordingly, reliance on this evidence will mislead the fact finder and confuse the issues set forth in this proceeding.

Ex. 2011 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate Ex. 2011 to show that it is what Patent Owner claims it is. Accordingly, by failing to authenticate this exhibit it is inadmissible under FRE 901.

Further, exhibit 2011 is inadmissible under F.R.E. 403. Any probative value of the exhibit is substantially outweighed by unfair prejudice, confusing the issues,

and/or wasting time. Moreover, any alleged value is outweighed by the danger of misleading the fact finder because it is relied upon to define the term "firm." To support this definition, Patent Owner relies on extrinsic evidence, the "American Heritage dictionary," that confuses and misleads the actual disclosure of the art of record. (POPR at 46). Accordingly, reliance on this evidence will mislead the fact finder and confuse the issues set forth in this proceeding.

Petitioner reserves its right to file a motion to exclude these exhibits under 37 C.F.R. § 42.64(c).

Respectfully submitted,

Date: August 7, 2023

/s/ Jonathan I. Detrixhe

Jonathan I. Detrixhe

Reg. No. 68,556

Counsel for Petitioner

CERTIFICATE OF SERVICE

In accordance with 37 C.F.R. §§ 42.6(e), and pursuant to agreement by the parties that filing with the Board through the Patent Trial and Appeal Case Tracking System (P-TACTS) constitutes electronic service, the undersigned certifies that filing the foregoing **PETITIONER'S OBJECTIONS TO EVIDENCE UNDER 37 C.F.R. § 42.64** on P-TACTS on August 7, 2023 constitutes service on the following Patent Owner's representatives:

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Date: August 7, 2023

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