

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KEYSIGHT TECHNOLOGIES, INC.,
Petitioner,

v.

CENTRIPETAL NETWORKS, INC.,
Patent Owner.

IPR2023-00446

Patent 10,567,343

**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 Scheduling Order (Paper 10) 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 Response ("POR") on October 30, 2023 (Paper 15):

- Ex. 2010 – Declaration of Dr. Goodrich In Support of Patent Owner's Response;
- Ex. 2013 – Stack Overflow website - Linux
- Ex. 2014 – Snort Users Manual 2.9.0. The Snort Project, March 25, 2011
- Ex. 2015 – "Bleeding Edge Threats SID Allocation," Emerging Threats.com
- Ex. 2016 – "Emerging Threats - Ruleset Downloads," Emerging Threats.com
- Ex. 2017 – M. Jonkman, "Emerging Threats FAQs," Emerging Threats.com.
- Ex. 2018 – M. Jonkman. "[Bleeding-sigs] New SSL/TLS State Machine" July 5, 2006
- Ex. 2019 – "[Bleeding-sigs] Bleeding Snort Daily Signature Changes," July 6, 2006

- Ex. 2020 – “[Bleeding-sigs] Bleeding Snort Daily Signature Changes,”
July 10, 2006
- Ex. 2021 – M. Jonkman. “Re: [Bleeding-sigs] BLEEDING-EDGE
POLICY TLS/SSL Encrypted Application,” May 28, 2007
- Ex. 2022 – Commented rules – Rules – Suricata, Forum post by member
of Emerging Threats rule writing team
- Ex. 2023 – Data Exfiltration: How Data Gets Out, dated March 26, 2010
- Ex. 2024 – Giani, A., et al., Detection of Covert Channel Encoding in
Network Packet Delays
- Ex. 2025 – a Enterprise Strategy Group (ESG) White Paper – Centripetal
Networks Threat Intelligence Gateway, by Tony Palmer (May 2018)
- Ex. 2026 – American Banker Webpage – Top 10 FinTech Companies to
Watch
- Ex. 2027 – Gartner - Cool Vendors in Security for Technology and
Service Providers
- Ex. 2028 – Centripetal Press Release - Centripetal Networks Named
SINET 16 Innovator for 2017.
- Ex. 2030 – Internet Archive Wayback Machine - Full directory listing of
Rules.emergingthreats.net.

Exhibit 2010 includes Dr. Goodrich's testimony that has not been cited or referenced in POR (Paper 15). In particular, testimony set forth in paragraphs 46-47, 49, 53-55, 61-63, 64-67, 71-75, 83-85, 97-98, 99-103 and 113 has not been cited in POR. The lack of citation to such testimony in the POR is evidence that this testimony is not relevant under FRE 401.

Further, above noted paragraphs of this exhibit are inadmissible under FRE 403. Any probative value of the testimony in those paragraphs is substantially outweighed by unfair prejudice, confusing the issues, and/or wasting time because such testimony is not relied upon by the Patent Owner.

Accordingly, reliance on this evidence will mislead the fact finder and confuse the issues set forth in this proceeding.

Exhibit 2013 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate this exhibit. Moreover, this exhibit is not self-authenticating pursuant to FRE 902. Accordingly, this exhibit is inadmissible under FRE 901.

Further, this exhibit is inadmissible under FRE 801. Patent Owner relies on this exhibit, an out of court statement, for the purpose of the truth of matter asserted therein. None of the hearsay exceptions under FRE 803 apply here to render this out of court statement admissible.

Exhibit 2014 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate this exhibit. Moreover, this exhibit is not self-authenticating pursuant to FRE 902. Accordingly, this exhibit is inadmissible under FRE 901.

Exhibit 2015 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate this exhibit. Moreover, this exhibit is not self-authenticating pursuant to FRE 902. Accordingly, this exhibit is inadmissible under FRE 901.

Exhibit 2016 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate this exhibit. Moreover, this exhibit is not self-authenticating pursuant to FRE 902. Accordingly, this exhibit is inadmissible under FRE 901.

Exhibit 2017 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate this exhibit. Moreover, this exhibit is not self-authenticating pursuant to FRE 902. Accordingly, this exhibit is inadmissible under FRE 901.

Exhibit 2018 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate this exhibit. Moreover, this exhibit is not self-authenticating pursuant to FRE 902. Accordingly, this exhibit is inadmissible under FRE 901.

Further, this exhibit is inadmissible under FRE 401 because it does not mention or disclose exfiltration or the rule (SID 2003021) for which this exhibit is cited for in the POR. (Paper 15 at 16). As such, any testimony related to this exhibit is not relevant under FRE 401. Moreover, this exhibit is inadmissible under FRE 403. Any probative value of the exhibit is substantially outweighed by unfair prejudice, confusing the issues, and/or wasting time because the exhibit does not disclose what it is cited for and relied upon by the Patent Owner or its expert, Dr. Goodrich.

Accordingly, reliance on this evidence will mislead the fact finder and confuse the issues set forth in this proceeding

Exhibit 2019 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate this exhibit. Moreover, this exhibit is not self-authenticating pursuant to FRE 902. Accordingly, this exhibit is inadmissible under FRE 901.

Exhibit 2020 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate this exhibit. Moreover, this exhibit is not self-authenticating pursuant to FRE 902. Accordingly, this exhibit is inadmissible under FRE 901.

Exhibit 2021 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate this exhibit. Moreover, this exhibit is not self-

authenticating pursuant to FRE 902. Accordingly, this exhibit is inadmissible under FRE 901.

Exhibit 2022 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate this exhibit. Moreover, this exhibit is not self-authenticating pursuant to FRE 902. Accordingly, this exhibit is inadmissible under FRE 901.

Exhibit 2023 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate this exhibit. Moreover, this exhibit is not self-authenticating pursuant to FRE 902. Accordingly, this exhibit is inadmissible under FRE 901.

Exhibit 2024 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate this exhibit. Moreover, this exhibit is not self-authenticating pursuant to FRE 902. Accordingly, this exhibit is inadmissible under FRE 901.

Exhibit 2025 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate this exhibit. Moreover, this exhibit is not self-authenticating pursuant to FRE 902. Accordingly, this exhibit is inadmissible under FRE 901.

Exhibit 2026 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate this exhibit. Moreover, this exhibit is not self-

authenticating pursuant to FRE 902. Accordingly, this exhibit is inadmissible under FRE 901.

Exhibit 2027 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate this exhibit. Moreover, this exhibit is not self-authenticating pursuant to FRE 902. Accordingly, this exhibit is inadmissible under FRE 901.

Exhibit 2028 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate this exhibit. Moreover, this exhibit is not self-authenticating pursuant to FRE 902. Accordingly, this exhibit is inadmissible under FRE 901.

Exhibit 2030 is inadmissible under FRE 901 at least because Patent Owner has failed to authenticate this exhibit. Moreover, this exhibit is not self-authenticating pursuant to FRE 902. Accordingly, this exhibit is inadmissible under FRE 901.

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

Respectfully submitted,

Date: November 6, 2023

/s/ Gerard M. Donovan
Gerard M. Donovan
Reg. No. 67,771
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 November 6, 2023 constitutes service on the following Patent Owner's representatives:

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Date: November 6, 2023

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