

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETSKOPE, INC.,

Petitioner,

v.

FORTINET, INC.,

Patent Owner.

PTAB Case No. IPR2023-00459

Patent No. 10,084,825

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

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner Netskope, Inc. (“Netskope” or “Petitioner”) objects to evidence submitted by Patent Owner Fortinet, Inc. (“Fortinet” or “Patent Owner”) with its Patent Owner’s Preliminary Response (Paper 6) filed June 20, 2023. The objections are based on 37 C.F.R. Part 42, and the relevant portions of Federal Rules of Evidence (“FRE”) that are applicable to *inter partes* review proceedings under 37 C.F.R. § 42.62. These objections have been timely filed and served within ten business days of the institution of the trial.

I. Exhibit 2003

Fortinet purports that Exhibit 2003 is Newton’s Telecom Dictionary, 30th Updated, Expanded, Anniversary Edition (2016).” Netskope objects to Exhibit 2003 for several reasons.

First, Netskope objects to Exhibit 2003 under FRE 901 because Fortinet has failed to authenticate it. Specifically, Fortinet has failed to produce evidence sufficient to support a finding that Exhibit 2003 is what Fortinet claims it is.

Second, Netskope objects to Exhibit 2003 because Fortinet has failed to show it was publicly available on or before the priority date of the ’825 patent. Specifically, Fortinet has failed to show Exhibit 2003 was disseminated or available such that persons of ordinary skill in the art would have been able to locate and access it before the priority date of the ’825 patent. Accordingly, Exhibit 2003 is irrelevant and inadmissible. FRE 401-402.

Lastly, Netskope objects to Exhibit 2003 to the extent Fortinet is offering any statement in Exhibit 2003 for the truth of the matter asserted therein (FRE 801-802) or the truth of any hearsay statement quoted in Exhibit 2003 (FRE 805).

Dated: September 22, 2023

Respectfully submitted,

/Thomas N. Millikan /

Lead Counsel

Thomas N. Millikan (Reg. No. 72,316)

PERKINS COIE LLP
11452 El Camino Real, Suite 300
San Diego, California 92130-2080
(858) 720-5700

Back-up Counsel

Babak Tehrani (Reg. No. 55,937)

Andrew N. Klein (*pro hac vice*)

Attorneys for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing PETITIONER'S OBJECTIONS TO PATENT OWNER'S EVIDENCE UNDER 37 C.F.R. § 42.64(b)(1) was served in its entirety this 22nd day of September, 2023 by electronic mail on the Patent Owner via its attorneys of record:

James M. Glass - jimglass@quinnemanuel.com
John T. McKee - johnmckee@quinnemanuel.com
Quincy Lu - quincylu@quinnemanuel.com
Andrew M. Holmes - drewholmes@quinnemanuel.com
Ognjen Zivojnovic - ogizivojnovic@quinnemanuel.com
Razmig H. Messerian - razmesserian@quinnemanuel.com
Sean Gloth - seangloth@quinnemanuel.com
QUINN EMANUEL URQUHART & SULLIVAN LLP
51 Madison Ave, 22nd Floor
New York, New York 10010

Dated: September 22, 2023

Respectfully submitted,

/Thomas N. Millikan/

Lead Counsel

Thomas N. Millikan (Reg. No. 72,316)

Back-up Counsel

Babak Tehrani (Reg. No. 55,937)

Andrew N. Klein (*pro hac vice*)

PERKINS COIE LLP
11452 El Camino Real, Suite 300
San Diego, California 92130-2080
(858) 720-5700

Attorneys for Petitioner