

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ERICSSON INC.,

Petitioner,

v.

KONINKLIJKE KPN N.V. and NEDERLANDSE ORGANISATIE VOOR
TOEGEPAST-NATUURWETENSCHAPPELIJK ONDERZOEK TNO,

Patent Owners

Case No. IPR2023-00902
U.S. Patent No. 9,438,572

**PATENT OWNERS' OBJECTIONS TO EVIDENCE SUBMITTED PRIOR
TO INSTITUTION**

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.64(b), Patent Owners Koninklijke KPN N.V. and Nederlandse Organisatie voor Toegepast-Natuurwetenschappelijk Onderzoek TNO (“Patent Owners”) respectfully assert the following objections to the evidence proffered prior to institution of the *inter partes* review filed by Ericsson Inc. (“Petitioner”) regarding the claims of U.S. Patent No. 9,438,572 (the “’572 Patent”). The Federal Rules of Evidence (“FRE”) apply to these proceedings according to the provisions of 37 C.F.R. § 42.62(a), and these rules, along with relevant case law and PTAB Rules, form the basis of objections contained herein. Patent Owners’ objections apply equally to Petitioner’s reliance on or citation to any objected evidence in its papers, including expert declarations. These objections are being served and filed within 10 business days from the institution of trial on November 27, 2023.

Evidence	Objection(s)
Ex. 1003, Keromytis Declaration ¶¶4, 24-32, 61, 62	Exhibit 1003 is the Declaration of Dr. Angelos Keromytis. Patent Owners object to ¶¶24-32, 61, 62, under 37 CFR § 42.65(a): Testimony on United States patent law or patent examination practice is not admissible. In addition, Patent Owner objects to ¶¶4, 24, 28, 29, 30, 32 as inadmissible hearsay under FRE 802, <i>e.g.</i> , because each of those paragraphs states that the declarant has “been informed” of certain statements.

Evidence	Objection(s)
Ex. 1004, Keromytis CV	Exhibit 1004 is the <i>Curriculum Vitae</i> of Dr. Angelos Keromytis. Patent Owner objects to this exhibit as not authenticated under FRE 901.
Ex. 1007, RFC 4279	Exhibit 1007 is RFC 4279. Patent Owners object to this exhibit as inadmissible hearsay under FRE 802, <i>e.g.</i> , the purported publication date printed on the reference. <i>See</i> Ex. 1007 at 1. Further, Patent Owners object to this exhibit as not authenticated under FRE 901. ^{1 2} In addition, Patent Owners object to this exhibit as irrelevant under FRE 402, and prejudicial, misleading, confusing, and/or a waste of time under FRE 403.
Ex. 1009, Schneier	Exhibit 1009 is Schneier, “Applied Cryptography: Protocols, Algorithms, and Source Code in C,” Wiley & Sons (Second Edition), 1996. Patent Owners object to this exhibit as inadmissible hearsay under FRE 802, <i>e.g.</i> , the purported publication date printed on the reference. <i>See</i> Ex. 1009 at 5. Further, Patent Owners object to this exhibit as not authenticated under FRE 901. In addition, Patent Owners object to this exhibit as irrelevant under FRE 402, and prejudicial, misleading, confusing, and/or a waste of time under FRE 403.

¹ E.g., when offering a printout of a webpage into evidence to prove the website’s contents, the proponent of the evidence must authenticate the information from the website itself, not merely the printout. *See VictaulicCo. v. Tieman*, 499 F.3d 227, 236 (3d Cir. 2007).

² “[T]o authenticate printouts from a website, the party proffering the evidence must produce some statement or affidavit from someone with knowledge of the website ... for example a web master or someone else with personal knowledge would be sufficient.” *EMC Corp. v. Personalweb Techs., LLC*, Case IPR2013-00084, slip op. 45 (PTAB May 15, 2014) (Paper 64) (quoting *St. Luke's Cataract & Laser Inst., P.A. v. Sanderson*, 2006 WL 1320242, at *2 (M.D. Fla. May 12, 2006)).

Evidence	Objection(s)
Ex. 1014, ETSI TS 133 110 v10.1.0 (2011-07)	Exhibit 1014 is ETSI TS 133 110 v10.1.0 (2011-07). Patent Owners object to this exhibit as inadmissible hearsay under FRE 802, <i>e.g.</i> , the purported publication date printed on the reference. <i>See</i> Ex. 1014 at 2. Further, Patent Owners object to this exhibit as not authenticated under FRE 901. In addition, Patent Owners object to this exhibit as irrelevant under FRE 402, and prejudicial, misleading, confusing, and/or a waste of time under FRE 403.
Ex. 1015, RFC 2409	Exhibit 1015 is RFC 2409. Patent Owners object to this exhibit as inadmissible hearsay under FRE 802, <i>e.g.</i> , the purported publication date printed on the reference. <i>See</i> Ex. 1015 at 1. Furthermore, Patent Owners object to this exhibit as not authenticated under FRE 901. In addition, Patent Owners object to this exhibit as irrelevant under FRE 402, and prejudicial, misleading, confusing, and/or a waste of time under FRE 403.

Respectfully submitted this 11th day of December, 2023.

/Keith J. Wood, Reg. No. 45235/

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on December 11, 2023, the foregoing *Patent Owners' Objections to Evidence Submitted Prior to Institution* is being served electronically by agreement of the parties at the following email addresses.

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