UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NXP USA, INC.,
Petitioner,

v.

BELL NORTHERN RESEARCH, LLC,
Patent Owner

Case: IPR2023-01414
U.S. Patent No. 8,416,862

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

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Under the Federal Rules of Evidence and 37 C.F.R. § 42.64, Patent Owner Bell Northern Research, LLC ("Patent Owner") timely objects to evidence submitted by NXP USA, Inc. ("Petitioners") with its Reply in IPR2023-01414. Patent Owner serves Petitioner with these objections to provide notice that Patent Owner may move to exclude the challenged exhibits under 37 C.F.R. § 42.64(c).

Ex. 1025 – "IEEE 802.11-2016 (excerpts)"

Patent Owner objects to Ex. 1025 as being inadmissible because it was filed belatedly without proper authorization under 37 C.F.R. § 42.123(b).

Patent Owner objects to Ex. 1025 under Fed. R. Evid. 901(a) as Petitioner has not "produced sufficient evidence to support a finding that the item is what the proponent claims it is." For example, Petitioner alleges a publication date but has not provided sufficient evidence pursuant to Fed. R. Evid. 901(b) or otherwise satisfying the requirement of Fed. R. Evid. 901(a).

Patent Owner objects to this exhibit as hearsay under Fed. R. Evid. 801(c) and thus inadmissible under Fed. R. Evid. 802. For example, Petitioner relies on Ex. 1025 for the truth of the matter asserted therein. *See, e.g.*, Petitioner's Reply at 22, 24, 25. Yet Petitioner has not offered sufficient evidence that Ex. 1025 falls within any exception of the rule against hearsay under Fed. R. Evid. 802.

Patent Owner objects to this exhibit as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403 because Ex. 1025 is inadmissible as explained above.

Ex. 1026 – "IEEE Standard 802.11, 1999 Ed. (R2003) (excerpts)"

Patent Owner objects to Ex. 1026 as being inadmissible because it was filed belatedly without proper authorization under 37 C.F.R. § 42.123(b).

Patent Owner objects to Ex. 1026 under Fed. R. Evid. 901(a) as Petitioner has not "produced sufficient evidence to support a finding that the item is what the proponent claims it is." For example, Petitioner alleges a publication date but has not provided sufficient evidence pursuant to Fed. R. Evid. 901(b) or otherwise satisfying the requirement of Fed. R. Evid. 901(a).

Patent Owner objects to this exhibit as hearsay under Fed. R. Evid. 801(c) and thus inadmissible under Fed. R. Evid. 802. For example, Petitioner relies on Ex. 1026 for the truth of the matter asserted therein. *See, e.g.*, Petitioner's Reply at 23. Yet Petitioner has not offered sufficient evidence that Ex. 1026 falls within any exception of the rule against hearsay under Fed. R. Evid. 802.

Patent Owner objects to this exhibit as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a

waste of time under Fed. R. Evid. 403 because Ex. 1026 is inadmissible as explained above.

Ex. 1027 – "IEEE Standard 802.11a-1999 supplement to 802.11-1999 (excerpts)"

Patent Owner objects to Ex. 1027 as being inadmissible because it was filed belatedly without proper authorization under 37 C.F.R. § 42.123(b).

Patent Owner objects to Ex. 1027 under Fed. R. Evid. 901(a) as Petitioner has not "produced sufficient evidence to support a finding that the item is what the proponent claims it is." For example, Petitioner alleges a publication date but has not provided sufficient evidence pursuant to Fed. R. Evid. 901(b) or otherwise satisfying the requirement of Fed. R. Evid. 901(a).

Patent Owner objects to this exhibit as hearsay under Fed. R. Evid. 801(c) and thus inadmissible under Fed. R. Evid. 802. For example, Petitioner relies on Ex. 1027 for the truth of the matter asserted therein. *See, e.g.*, Petitioner's Reply at 23. Yet Petitioner has not offered sufficient evidence that Ex. 1027 falls within any exception of the rule against hearsay under Fed. R. Evid. 802.

Patent Owner objects to this exhibit as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403 because Ex. 1027 is inadmissible as explained above.

Ex. 1028 – "Singh, et al., WWise Proposal: High throughput extension to the 802.11 Standard (2004)"

Patent Owner objects to Ex. 1028 as being inadmissible because it was filed belatedly without proper authorization under 37 C.F.R. § 42.123(b).

Patent Owner objects to Ex. 1028 under Fed. R. Evid. 901(a) as Petitioner has not "produced sufficient evidence to support a finding that the item is what the proponent claims it is." For example, Petitioner alleges a publication date but has not provided sufficient evidence pursuant to Fed. R. Evid. 901(b) or otherwise satisfying the requirement of Fed. R. Evid. 901(a).

Patent Owner objects to this exhibit as hearsay under Fed. R. Evid. 801(c) and thus inadmissible under Fed. R. Evid. 802. For example, Petitioner relies on Ex. 1028 for the truth of the matter asserted therein. *See, e.g.*, Petitioner's Reply at 23. Yet Petitioner has not offered sufficient evidence that Ex. 1028 falls within any exception of the rule against hearsay under Fed. R. Evid. 802.

Patent Owner objects to this exhibit as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403 because Ex. 1028 is inadmissible as explained above.

Ex. 1029 – "Mujtaba, et al., TGn Sync Proposal Technical Specification (2005)"

Patent Owner objects to Ex. 1029 as being inadmissible because it was filed belatedly without proper authorization under 37 C.F.R. § 42.123(b).

Patent Owner objects to Ex. 1029 under Fed. R. Evid. 901(a) as Petitioner has not "produced sufficient evidence to support a finding that the item is what the proponent claims it is." For example, Petitioner alleges a publication date but has not provided sufficient evidence pursuant to Fed. R. Evid. 901(b) or otherwise satisfying the requirement of Fed. R. Evid. 901(a).

Patent Owner objects to this exhibit as hearsay under Fed. R. Evid. 801(c) and thus inadmissible under Fed. R. Evid. 802. For example, Petitioner relies on Ex. 1029 for the truth of the matter asserted therein. *See, e.g.*, Petitioner's Reply at 23. Yet Petitioner has not offered sufficient evidence that Ex. 1029 falls within any exception of the rule against hearsay under Fed. R. Evid. 802.

Patent Owner objects to this exhibit as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403 because Ex. 1029 is inadmissible as explained above.

Ex. 1030 – Supplemental Declaration of Jonathan Wells

Patent Owner objects to this exhibit under Fed. R. Evid. 702 and/or 802 as Dr. Wells has not yet been made available for cross-examination on his Supplemental Declaration during a deposition.

Patent Owner objects to Ex. 1030 as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403 because Ex. 1030 is inadmissible as explained above.

Patent Owner objects to this exhibit as constituting hearsay under Fed. R. Evid. 801(c) and thus being inadmissible under Fed. R. Evid. 802 because it relies on inadmissible hearsay in Exs. 1025-1029 to prove the truth of the matter asserted in the statements. E.g., Ex. 1030 at ¶¶ 74-79. Yet, Petitioner has not offered any evidence that such statements in Ex. 1030 fall within any exception to the rule against hearsay of Fed. R. Evid. 802.

Ex. 1031 – "Public Transcript of February 9, 2024 Deposition of Dr. Todor Cooklev in ITC proceeding 337-TA-1367"

Patent Owner objects to this document as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403. Petitioner has not relied on Ex. 1031 for any fact that is of consequence in determining this action.

Dated: October 9, 2024

/Jason M. Shapiro/

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served electronically via electronic mail (as previously consented to by counsel) on October 9, 2024 on the following counsel of record for Petitioners:

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