

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DROPBOX, INC.,

Petitioner

v.

MOTION OFFENSE, LLC,

Patent Owner

IPR2024-00286
U.S. Patent No. 11,611,520

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

Under 37 C.F.R. § 42.107

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
Submitted Electronically via PTAB E2E

Under the Federal Rules of Evidence and 37 C.F.R. § 42.64, Patent Owner Motion Offense, LLC (“Patent Owner”) timely objects to evidence submitted by Dropbox, Inc. (“Petitioner”) prior to institution of Inter Partes Review IPR2024-00286. 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) unless Petitioner cures the defects associated with the challenged exhibits identified below.

Ex. 1008 U.S. Patent Application Publication No. 2012/0278404 (“Meisels”)

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.

Ex. 1009 U.S. Patent Application Publication No. 2013/0067303 (“Kantor”)

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.

Ex. 1011 “SugarSync now allows you to work directly in Windows Explorer,”

D. Mihovilovic, May 6, 2009

Patent Owner objects to this exhibit 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 Ex. 1011 as hearsay under Fed. R. Evid. 801(c) and thus inadmissible under Fed. R. Evid. 802. For example, Petitioner relies on Ex. 1011 for the truth of the matter asserted therein. *See, e.g.*, Petition at 34-36. Yet Petitioner has not offered sufficient evidence that Ex. 1011 falls within any exception of the rule against hearsay under Fed. R. Evid. 802.

Patent Owner objects to Ex. 1011 as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being unduly prejudicial, confusing or a waste of time under Fed. R. Evid. 403 because Ex. 1011 is inadmissible as explained above.

Patent Owner objects to Ex. 1011 under Fed. R. Evid. 106 because it is incomplete.

Ex. 1012 Internet Archive Declaration of Nathaniel E Frank-White

Patent Owner objects to this document 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 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 Ex. 1012 as hearsay under Fed. R. Evid. 801(c) and

thus inadmissible under Fed. R. Evid. 802. For example, Petitioner relies on Ex. A of Ex. 1012 for the truth of the matter asserted therein. See, e.g., Petition at 34-36. Yet Petitioner has not offered sufficient evidence that Ex. 1012 falls within any exception of the rule against hearsay under Fed. R. Evid. 802.

Patent Owner objects to Ex. 1012 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. 1012 is inadmissible as explained above.

Patent Owner objects to Ex. 1012 under Fed. R. Evid. 106 because it is incomplete.

Patent Owner objects to Ex. 1012 under Fed. R. Evid. 602 because Mr. Frank-White lacks personal knowledge regarding the subject matter of his Declaration.

Patent Owner objects to Ex. 1012 because Mr. Frank-White has not been made available for cross-examination by deposition.

Patent Owner objects to Ex. 1012 because Mr. Frank-White has not satisfied the requirements of 37 C.F.R. § 1.68.

Ex. 1013 Motion Offense, LLC v. Dropbox, Inc., WDTX-6:20-cv-00251, Jury Verdict Form, May 19, 2023, Dkt. 382

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 unfairly prejudicial, confusing or a waste of time under Fed. R. Evid. 403. Patent Owner also objects to this document under Fed. R. Evid. 106 because the trial transcript and record must be considered at the same time.

Ex. 1015 U.S. Patent No. 6,351,776 (“O’Brien”)

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.

Ex. 1016 U.S. Patent Application Publication No. 2008/0320397 (“Do”)

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.

Ex. 1017 “Supporting File Sharing Through Improved Awareness,” T.

Whalen, August 2008

Patent Owner objects to Ex. 1017 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. 1017 for the truth of the matter asserted therein. *See, e.g.*, Petition at 29-30. Yet Petitioner has not offered sufficient evidence that Ex. 1017 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. 1017 is inadmissible as explained above.

Ex. 1018 Motion Offense, LLC v. Dropbox, Inc., WDTX-6:23-cv-00303, First Amended Complaint for Patent Infringement, July 26, 2023, Dkt. 22

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 unfairly prejudicial, confusing or a waste of time under Fed. R. Evid. 403. Patent Owner also objects to this document under Fed. R. Evid. 106 because the trial transcript and record involving the related patents must be considered at the same time.

Ex. 1023 Motion Offense, LLC v. Dropbox, Inc., WDTX-6:23-cv-00303, Plaintiff's Disclosure of Preliminary Infringement Contentions, September 20, 2023

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 unfairly

prejudicial, confusing or a waste of time under Fed. R. Evid. 403. Patent Owner also objects to this document under Fed. R. Evid. 106 because it omits an attached claim chart.

Dated: August 8, 2024

DEVLIN LAW FIRM LLC

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CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2024, I caused a true and correct copy of the foregoing materials to be served via the Patent Office electronic filing system, and electronic service via email to the following attorneys of record pursuant to Petitioner's consent.

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