

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

QUALCOMM INCORPORATED

Petitioner¹

v.

NETWORK SYSTEM TECHNOLOGIES, LLC,

Patent Owner

U.S. Patent No. 7,373,449

Inter Partes Review No. IPR2024-00338

PATENT OWNER'S OBJECTIONS TO EVIDENCE

¹ Qualcomm Incorporated filed a petition and motion for joinder in IPR2024-01081 and has been joined as a petitioner in this proceeding.

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner hereby submits objections to evidence served by Petitioner on January 27, 2025 in support of its Reply (Paper 43). Patent Owner's objections are due within five business days of the service of the supplemental evidence, i.e., by February 3, 2025. Thus, Patent Owner's evidence objections are timely. As set forth herein, Patent Owner identifies the evidence objected to and summarizes the objections, including the Federal Rules of Evidence ("FRE") or other rules that form the basis for the objections.

The discussion below identifies the evidence Patent Owner objects to and summarizes the objections, including the Federal Rules of Evidence ("FRE") or other rules that form the basis for the objections.

1. Ex. 1036 - "U.S. Patent No. 5,461,611 to Drake, marked as exhibit 1036 at the deposition of Dr. Bagherzadeh"

Patent Owner objects to Ex. 1036 because it is not sufficiently relevant, and any relevance is outweighed by the risks of confusion, substantial danger of unfair prejudice, and/or misleading the fact finder. *See* FED. R. EVID. 401-403. Patent Owner further objects to Ex. 1036 for the same reasons as the corresponding deposition testimony, as set forth below.

2. Ex. 1037 - "Transcript from the January 16, 2025 deposition of Dr. Bagherzadeh"

Patent Owner objects to the following portions of Ex. 1037 cited in Petitioner's Reply:

Page(s) / Line(s)	Objection(s)
53:23-56:13	Vague and ambiguous, lacking foundation, outside the scope of direct testimony. Dr. Bagherzadeh was asked whether he could “draw a line on Figure 1 for the path Drake discloses for request for a QoS connection that is sent from the application to the QoS allocator” (Ex. 1037 at 53:23-54:1); “can you draw the line of the path that Drake discloses for request for a QoS connection that is sent from the application to the QoS allocator” (<i>id.</i> at 54:12-15); and “the question is: The path of the request from the application to the QoS allocator” (<i>id.</i> at 56:6-7). This questioning was vague and ambiguous as to what the phrases “the path,” “for request for,” “the line of the path.” Petitioner failed to lay foundation as to what these terms referred to. This questioning was also outside the scope of Dr. Bagherzadeh’s direct testimony because Dr. Bagherzadeh never drew or annotated “the path Drake discloses for request for a QoS connection that is sent from the application to the QoS allocator” and otherwise did not have a sufficient basis in a statement made by Dr. Bagherzadeh in his declaration. <i>See</i> FED. R. EVID. 611(b); 37 C.F.R. § 42.53(d)(5)(ii). Patent Owner objects to the extent

	this questioning concerns Ex. 1036, which Patent Owner objects to herein as inadmissible evidence.
60:3-61:13	Vague and ambiguous, lacking foundation. Dr. Bagherzadeh was asked “what is the path that is disclosed by Drake for that message going to application requesting QoS” (Ex. 1037 at 60:3-5) and “Drake does not disclose that different path, either explicitly or implicitly?” (<i>id.</i> 60:24-25). This questioning was vague and ambiguous as to what the phrases “the path,” “that message,” “that different path,” and “explicitly or implicitly.” Petitioner failed to lay foundation as to what these terms referred to. Patent Owner objects to the extent this questioning concerns Ex. 1036, which Patent Owner objects to herein as inadmissible evidence.
65:13-66:4	Vague and ambiguous, lacking foundation, mischaracterizes evidence. Dr. Bagherzadeh was asked “I think the transcript is just not perfectly clear on this. You agree that this statement in Drake is saying that Drake is not limited to token ring networks; right,” (Ex. 1037 at 65:13-16) and “So, yes, that is what the statement says? Setting aside the fact that you haven’t looked at whether it applies to other things, this statement says that this

	can apply to other Local Area Networks other than token networks; right?” (<i>id.</i> at 65:22-66:1). This questioning was vague and ambiguous as to what the phrases “this statement,” “is not limited to,” “what,” “the statement,” “it,” “other things,” “this statement,” “this,” “can apply,” “token networks.” Petitioner failed to lay foundation as to what these terms referred to. This questioning mischaracterized Drake’s disclosure. <i>See</i> Fed. R. Evid. 611(a) and 403.
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3. Ex. 1038 - “United States Copyright Office page for the Design, Automation and Test in Europe (DATE ’02) Conference Proceedings”

Patent Owner objects to Ex. 1038 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* FED. R. EVID. 801-807. Patent Owner objects to Ex. 1038 because it is not sufficiently relevant, and any relevance is outweighed by the risks of confusion, substantial danger of unfair prejudice, and/or misleading the fact finder. *See* FED. R. EVID. 401-403.

4. Ex. 1039 – “Design, Automation and Test in Europe (DATE ’02) Conference Website”

Patent Owner objects to Ex. 1039 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* FED. R. EVID. 801-807. Patent Owner objects to Ex. 1039 as not authenticated and not self-authenticating. *See* FED. R.

EVID. 901-902. Petitioner provides no authenticating declaration explaining what Ex. 1039 is, how it was acquired, or how it was made. Patent Owner objects to Ex. 1039 because it is not sufficiently relevant, and any relevance is outweighed by the risks of confusion, substantial danger of unfair prejudice, and/or misleading the fact finder. *See* FED. R. EVID. 401-403.

5. Ex. 1040 – “Kees Goossens’s Publication Page”

Patent Owner objects to Ex. 1040 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* FED. R. EVID. 801-807. Patent Owner objects to Ex. 1040 as not authenticated and not self-authenticating. *See* FED. R. EVID. 901-902. Petitioner provides no authenticating declaration explaining what Ex. 1040 is, how it was acquired, or how it was made. Patent Owner objects to Ex. 1040 because it is not sufficiently relevant, and any relevance is outweighed by the risks of confusion, substantial danger of unfair prejudice, and/or misleading the fact finder. *See* FED. R. EVID. 401-403. Ex. 1040 is cited nowhere in the Reply.

6. Ex. 1041 – “IEEE Xplore Celebrates 15 years of Information Driving Innovation (April 14, 2005)”

Patent Owner objects to Ex. 1041 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* FED. R. EVID. 801-807. Patent Owner objects to Ex. 1041 as not authenticated and not self-authenticating. *See* FED. R. EVID. 901-902. Patent Owner objects to Ex. 1041 because it is not sufficiently relevant, and any relevance is outweighed by the risks of confusion, substantial

danger of unfair prejudice, and/or misleading the fact finder. *See* FED. R. EVID. 401-403. Ex. 1041 is cited nowhere in the Reply.

7. Ex. 1042 – “Wayback Machine record of the IEEE Xplore website”

Patent Owner objects to Ex. 1042 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* FED. R. EVID. 801-807. Patent Owner objects to Ex. 1042 as not authenticated and not self-authenticating. *See* FED. R. EVID. 901-902. Petitioner provides no authenticating declaration explaining what Ex. 1042 is, how it was acquired, or how it was made. Patent Owner objects to Ex. 1042 because it is not sufficiently relevant, and any relevance is outweighed by the risks of confusion, substantial danger of unfair prejudice, and/or misleading the fact finder. *See* FED. R. EVID. 401-403. Ex. 1042 is cited nowhere in the Reply.

8. Ex. 1043 – “Declaration of Todd Mowry, Ph.D.”

Patent Owner objects to Ex. 1043 to the extent it incorporates or references Ex. 1003, which Patent Owner previously objected to as inadmissible evidence. *See* Paper 12.

Patent Owner objects to Ex. 1043 as hearsay being offered for a hearsay purpose and to which no valid exception applies. *See* FED. R. EVID. 801-807, 901-902. Patent Owner also objects to Ex. 1043 as lacking foundation, assuming facts not in evidence, containing testimony on matters as to which the witness lacks personal knowledge and as being conclusory. Ex. 1043 is objected to under FRE 702

for failing to demonstrate that the declarant is qualified as an expert in the relevant subject matter. Ex. 1043 is further objected to under FRE 702(b)-(d) as failing to be based upon sufficient facts or data, as the product of unreliable principles and methods and for failing to reliably apply sound principles and methods to the facts of the case. Ex. 1043 is further objected because it is not sufficient relevant, and any relevance is outweighed by the risks of confusion, substantial danger of unfair prejudice, and/or misleading the fact finder. *See* FED. R. EVID. 401-403.

Patent Owner objects to paragraphs 21, 80, 83, 91, 139, 151, and 152 of Ex. 1043 under FRE 703, to the extent those paragraphs relying on Exhibits 1037 which Patent Owner objected to as inadmissible evidence.

9. Ex. 1044 – “Declaration of Nikil Dutt”

Patent Owner objects to Ex. 1044 as hearsay being offered for a hearsay purpose and to which no valid exception applies. *See* FED. R. EVID. 801-807, 901-902. To the extent Ex. 1044 purports to offer opinions on the accessibility of “‘Networks on Silicon: Combining Best-Effort and Guaranteed Services,’ by K. Goossens, P. Wielage, A. Peeters, and J. van Meerbergen,” Patent Owner objects to Ex. 1044 as not being the product of reliable facts or data. Patent Owner further objects to Ex. 1044 as lacking foundation, assuming facts not in evidence, containing testimony on matters as to which the witness lacks personal knowledge, and as being conclusory. FED. R. EVID. 602, 701-703.

Patent Owner further objects to paragraph 25 of Ex. 1044 in which Dr. Dutt's testimony is based on a discussion with an unidentified "librarian at the University of California-Irvine." FED. R. EVID. 602, 701-703.

10. Ex. 1045 – "*Curriculum Vitae* of Nikil Dutt"

Patent Owner objects to Ex. 1045 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* FED. R. EVID. 801-807. Patent Owner objects to Ex. 1045 because it is not sufficiently relevant, and any relevance is outweighed by the risks of confusion, substantial danger of unfair prejudice, and/or misleading the fact finder. *See* FED. R. EVID. 401-403. Ex. 1045 is cited nowhere in the Reply.

11. Ex. 1046 – "Declaration of Sylvia Hall-Ellis, Ph.D."

Patent Owner objects to Ex. 1046 to the extent it incorporates or otherwise references to Ex. 1035, which Patent Owner previously objected to as inadmissible evidence. *See* Paper 39.

Patent Owner objects to Ex. 1046 as hearsay being offered for a hearsay purpose and to which no valid exception applies. *See* FED. R. EVID. 801-807, 901-902. To the extent Ex. 1046 purports to offer opinions on the accessibility of "2002 *Design, Automation, and Test in Europe Conference and Exhibition Proceedings*;" "*Design, Automation, and Test in Europe Conference and Exhibition 2002 : proceedings : Paris, France, March 4-6 2002*;" "*Design, Automation & Test in*

Europe Conference and Exhibition, Mar. 4 2002 to Mar. 8 2002 [in] Paris, France;” or “*20002 design, automation, and test in Europe conference and exhibition : proceedings, March 4-8, 2002, [in] Paris, France*” (¶¶19-26), Patent Owner objects to Ex. 1046 as not being the product of reliable facts or data. Patent Owner further objects to Ex. 1046 as lacking foundation, assuming facts not in evidence, containing testimony on matter as to which the witness lacks personal knowledge, and as being conclusory. FED. R. EVID. 602, 701-703.

12. Ex. 1047 – “Goossens, et. al.; *Networks on Silicon: Combining Best-Effort and Guaranteed Services, Design, Automation and Test in Europe 2002*”

Patent Owner objects to Ex. 1047 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* FED. R. EVID. 801-807. Patent Owner objects to Ex. 1047 as not authenticated and not self-authenticating. *See* FED. R. EVID. 901-902. Petitioner provides no authenticating declaration explaining what Ex. 1047 is, how it was acquired, or how it was made. Patent Owner objects to Ex. 1047 because it is not sufficiently relevant, and any relevance is outweighed by the risks of confusion, substantial danger of unfair prejudice, and/or misleading the fact finder. *See* FED. R. EVID. 401-403.

13. Ex. 1048 – “Library of Congress record page for the Design, Automation and Test in Europe (DATE ’02) Conference Proceedings”

Patent Owner objects to Ex. 1048 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* FED. R. EVID. 801-807. Patent Owner objects to Ex. 1048 as not authenticated and not self-authenticating. *See* FED. R. EVID. 901-902. Patent Owner objects to Ex. 1048 because it is not sufficiently relevant, and any relevance is outweighed by the risks of confusion, substantial danger of unfair prejudice, and/or misleading the fact finder. *See* FED. R. EVID. 401-403.

14. Ex. 1049 - “Declaration of Sage Kruse”

Patent Owner objects to Ex. 1049 as hearsay being offered for a hearsay purpose and to which no valid exception applies. *See* FED. R. EVID. 801-807, 901-902. Patent Owner further objects to Ex. 1049 as lacking foundation, assuming facts not in evidence, containing testimony on matters as to which the witness lacks personal knowledge, and as being conclusory. FED. R. EVID. 602, 701-703. To the extent Ex. 1049 purports to offer an expert opinion, Patent Owner objects to Ex. 1049 as not being the product of reliable facts or data.

15. Ex. 1050 - “Exhibits to the declaration of Sage Kruse”

Patent Owner objects to Ex. 1050 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* FED. R. EVID. 801-807. Patent Owner objects to Ex. 1050 as not authenticated and not self-authenticating. *See* FED. R. EVID. 901-902. Petitioner provides no authenticating declaration explaining what

Ex. 1050 is, how it was acquired, or how it was made. Patent Owner objects to Ex. 1050 because it is not sufficiently relevant, and any relevance is outweighed by the risks of confusion, substantial danger of unfair prejudice, and/or misleading the fact finder. *See* FED. R. EVID. 401-403.

16. Ex. 1051 - “IEEE record page for the Design, Automation and Test in Europe (DATE ’02) Conference Proceedings”

Patent Owner objects to Ex. 1051 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* FED. R. EVID. 801-807. Patent Owner objects to Ex. 1051 as not authenticated and not self-authenticating. *See* FED. R. EVID. 901-902. Patent Owner objects to Ex. 1051 because it is not sufficiently relevant, and any relevance is outweighed by the risks of confusion, substantial danger of unfair prejudice, and/or misleading the fact finder. *See* FED. R. EVID. 401-403.

Respectfully submitted,

Dated: February 3, 2025

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Patent Owner's Objections to Evidence was served on February 3, 2025, upon the following parties via electronic service:

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