

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

QUALCOMM INCORPORATED
Petitioner

v.

NETWORK SYSTEM TECHNOLOGIES, LLC
Patent Owner

Case: IPR2024-00343
U.S. Patent No. 7,594,052 B2

PETITIONER'S MOTION TO EXCLUDE

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Pursuant to 37 C.F.R. §§ 42.62 and 42.64(c) and the Federal Rules of Evidence, Petitioner hereby moves to exclude Exhibit 2065 submitted and relied upon by Patent Owner Network System Technologies, LLC (“PO”).

I. Identification of Objections

Petitioner timely objected to Exhibit 2065 on October 7, 2024, including on the basis that it is not sufficiently relevant and therefore inadmissible under Federal Rules of Evidence (“FRE”) 401-403. Paper 39, 2. PO did not serve supplemental evidence.

II. The Board Should Exclude Exhibit 2065

Exhibit 2065 is a purported copy of “‘Terms & Disclosures for Use of IEEE Websites’ available from the following URL: <https://www.ieee.org/about/help/site-terms-conditions.html>.” Ex-2081, ¶6.

Exhibit 2065 should be excluded under FRE 401-402 as irrelevant, as it does not tend to make a fact at issue in the case more or less probable. The portion of Exhibit 2065 PO points to appears to be merely a statement intended to “Disclaim[]” any legal liability for any “typographical errors, miscatalogued information, or technical inaccuracies.” Ex-2065, 3 (“Disclaimer of Accuracy”). Whether an entity has a statement directed to disclaiming *legal* liability for typographical mistakes regarding information on its website is a separate issue from whether a Petitioner has proven, by a preponderance of the evidence, that a

particular publication obtained from the IEEE Xplore service is prior art. This is particularly true where, as here, the IEEE organization has voluntarily provided a declaration regarding a particular publication from its designated records custodian. Ex-1018. Moreover, and further demonstrating its irrelevance, Exhibit 2065 is undated, and it also does not specify when it was created or posted. *See* Ex-2065.

To the extent not excluded under FRE 401-402, Exhibit 2065 should be excluded under FRE 403. PO's citation to Exhibit 2065 tries to conflate the issue of whether a proponent has proven prior art status by a preponderance of the evidence with the (very different) issue of a statement of disclaimer of legal liability. A party may choose to include a statement regarding disclaimer of legal liability for many different reasons that are completely unrelated to the actual likelihood the information is accurate. The fact that a party may do so does not make it more or less likely that, under the preponderance of the evidence standard, a particular publication obtained from IEEE Xplore is prior art. Even if Exhibit 2065 had any minimal probative value (it does not), that would be outweighed by a danger of confusing the issues.

Respectfully submitted,

Dated: March 5, 2025

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CERTIFICATION OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e) and the agreement of the parties, the undersigned certifies that on March 5, 2025 a true and correct copy of the foregoing Petitioner's Motion to Exclude was served via electronic mail upon the following:

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