

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTERACTIVE COMMUNICATIONS INTERNATIONAL, INC.
Petitioner,

v.

BLACKHAWK NETWORK INC.,
Patent Owner

Case No. IPR2024-00465
U.S. Patent No. 11,488,451

PATENT OWNER'S NOTICE OF OBJECTIONS TO EVIDENCE

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Blackhawk Network Inc. (“Patent Owner”) submits the following objections to Petitioner Interactive Communications International, Inc.’s (“Petitioner”) exhibits. As required by 37 C.F.R. § 42.62, Patent Owner’s objections below apply the Federal Rules of Evidence (“FRE”).

II. OBJECTIONS

A. Objections to Exhibit 1036 Supplemental Declaration of Mr. Hutton

Grounds for Objection: FRE 401-403, 702; 37 C.F.R. §§ 42.22, 42.23.

Patent Owner objects to the admissibility of Exhibit 1036 under FRE 401-403, 702 and 37 C.F.R. § 42.23(b). Mr. Hutton’s Supplemental Declaration contains new opinions and arguments that were not included in his original expert report or the petition. These new opinions and arguments should have been presented at the time the petition was filed, are not proper reply opinions and are in violation of 37 C.F.R. § 42.23(b). *See also* Consolidated Trial Practice Guide at 73 (Nov. 21, 2019) (“Petitioner may not submit new evidence or argument in reply that it could have presented earlier, e.g. to make out a prima facie case of unpatentability.”). To the extent that Patent Owner is relying on Exhibit 1036 to support arguments made in

the Petition but for which inadequate evidence was presented, Exhibit 1036 is improper under 37 C.F.R. § 42.22, which requires a detailed explanation of evidence so as to provide a full statement of reasons for the relief requested. The Supplemental Declaration is prejudicial under FRE 401-403, as the rules do not provide an opportunity for Patent Owner to submit a responsive supplemental expert declaration. *See* 37 C.F.R. § 42.23(b); *id.* The proposed testimony is also barred by FRE 702.

B. Objections to Exhibit 1038
South Carolina Lottery, “Glossary of Lottery Terms”

Grounds for Objection: FRE 401-403; 37 C.F.R. §§ 42.22, 42.23.

Patent Owner objects to the admissibility of Exhibit 103 under FRE 401- 403 and 37 C.F.R. § 42.23(b). Exhibit 1038 is not relevant to this proceeding, and it is hearsay. Further, to the extent the exhibit is deemed relevant, its admission would be unduly prejudicial, misleading, and a waste of time. Patent Owner is relying on Exhibit 1038 for a new argument that should have been presented at the time the petition was filed and is in violation of 37 C.F.R. § 42.23(b). To the extent that Patent Owner is relying on Exhibit 1038 to support arguments made in the Petition but for which inadequate evidence was presented, Exhibit 1038 is improper under 37 C.F.R. § 42.22, which requires a detailed explanation of evidence so as to provide a full statement of reasons for the relief requested.

C. Objections to Exhibit 1039
Boto, “A New Legislative Framework for Online Gaming in Spain, UNLV Gaming Law Journal (2013)”

Grounds for Objection: FRE 401-403; 37 C.F.R. §§ 42.22, 42.23.

Patent Owner objects to the admissibility of Exhibit 103 under FRE 401-403 and 37 C.F.R. § 42.23(b). Exhibit 1039 is not relevant to this proceeding. Further, to the extent the exhibit is deemed relevant, its admission would be unduly prejudicial, misleading, and a waste of time. Patent Owner is relying on Exhibit 1039 for a new argument that should have been presented at the time the petition was filed and is in violation of 37 C.F.R. § 42.23(b). To the extent that Patent Owner is relying on Exhibit 1039 to support arguments made in the Petition but for which inadequate evidence was presented, Exhibit 1039 is improper under 37 C.F.R. § 42.22, which requires a detailed explanation of evidence so as to provide a full statement of reasons for the relief requested.

D. Objections to Exhibit 1040
U.S. Patent Publ’n. No. 2013/0204777

Grounds for Objection: FRE 401-403; 37 C.F.R. §§ 42.22, 42.23.

Patent Owner objects to the admissibility of Exhibit 103 under FRE 401-403 and 37 C.F.R. § 42.23(b). Exhibit 1040 is not relevant to this proceeding. Further, to the extent the exhibit is deemed relevant, its admission would be unduly prejudicial, misleading, and a waste of time. Patent Owner is relying on Exhibit 1040

for a new argument that should have been presented at the time the petition was filed and is in violation of 37 C.F.R. § 42.23(b). To the extent that Patent Owner is relying on Exhibit 1040 to support arguments made in the Petition but for which inadequate evidence was presented, Exhibit 1040 is improper under 37 C.F.R. § 42.22, which requires a detailed explanation of evidence so as to provide a full statement of reasons for the relief requested.

Respectfully submitted,

Date: February 11, 2025

/Robert L. Hails/

Robert L. Hails

Reg. No. 39,702

Jason F. Hoffman

(admitted *pro hac vice*)

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing Patent Owner's Notice of Objection to Evidence was served electronically via email on February 11, 2025, on the following:

jimglass@quinnemanuel.com
quincylu@quinnemanuel.com

Date: February 11, 2025

By: /Robert L. Hails/
Robert L. Hails
Reg. No. 39702

Counsel for Patent Owner