UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner

v.

SITNET LLC,
Patent Owner

Case IPR2024-00612
U.S. Patent No. 8,249,932

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

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Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner Meta Platforms, Inc. ("Petitioner") objects under the Federal Rules of Evidence ("F.R.E.") to the admissibility of Exhibit 2009 and other purported evidence referenced in Patent Owner's Response.

Petitioner timely objects under 37 C.F.R. § 42.64(b)(1) within five business days of service.

I. EX2009 – DECLARATION OF DR. AVIEL D. RUBIN

Petitioner objects to Exhibit 2009, including at least ¶¶ 23–120, as improper expert testimony under F.R.E. 702 and 703 because there has not been an adequate showing that Dr. Rubin's testimony is based on sufficient facts or data, is the product of reliable principles or methods, or will help the Board understand the evidence or determine a fact in issue.

Petitioner further objects to Exhibit 2009 under F.R.E. 401, 402, and 403 for including information that is irrelevant or whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence. For example, Exhibit 2009 is not cited in Patent Owner's Response. *See* Paper 14.

Petitioner further objects to Exhibit 2009 as an improper declaration for failing to include statements required under 37 C.F.R. § 1.68. *See* 37 C.F.R.

§ 42.53(a) ("Uncompelled direct testimony must be submitted in the form of an affidavit."); 37 C.F.R. § 42.2 ("Affidavit means affidavit or declaration under § 1.68 of this chapter.").

Petitioner further objects to Exhibit 2009, including at least ¶¶ 34 and 92–94, under 37 C.F.R. § 42.63(a) for improperly referencing website content that has not been filed in the form of an exhibit. Petitioner also objects to ¶¶ 34 and 92–94 under F.R.E. 801 and 802 to the extent the referenced website content is offered for the truth of the matter asserted.

II. PURPORTED EVIDENCE REFERENCED IN PAPER 14

Patent Owner's Response (Paper 14) improperly reference content (e.g., websites) that has not been filed in the form of an exhibit. *See* POR, 4, 7. Petitioner thus objects to this purported evidence under 37 C.F.R. § 42.63(a). Petitioner also objects to this purported evidence under F.R.E. 801 and 802 to the extent the referenced content is offered for the truth of the matter asserted.

Respectfully submitted,
STERNE, KESSLER, GOLDSTEIN & FOX PLLC

/Jonathan Tuminaro/

Jonathan Tuminaro
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Counsel for Petitioner Meta Platforms, Inc.

Date: December 11, 2024

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **PETITIONER'S OBJECTIONS TO PATENT OWNER'S EVIDENCE PURSUANT TO 37 C.F.R. § 42.64(b)(1)** was served electronically via e-mail on December 11, 2024, in its entirety on the following counsel of record for Patent Owner:

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Respectfully submitted,

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