UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TIKTOK INC.,
Petitioner,

v.

NTECH PROPERTIES, INC.,
Patent Owner.

Case IPR2024-01342
U.S. Patent No. 8,886,753

PATENT OWNER'S OBJECTIONS TO EVIDENCE UNDER 37 C.F.R. § 42.64

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner ("NTECH") submits the following objections to Petitioner's exhibits. These objections are timely, having been filed within 10 business days of the institution of trial. NTECH objects to the following exhibits:

Exhibit No.	Description
1002	Declaration of Kevin Almeroth, Ph.D.
1010	Wilkerson, "ACTV hopes to steal print's thunder" (Dec. 8, 2000)
1012	B. Hammersley, "Audible revolution" (Feb. 11, 2004)
1015	Verizon, "Verizon Unlocks Full Potential of Fiber-Based FiOS Internet and Video Services With Advanced 100-Mbps Broadband Home Router" (June 28, 2006)
1022	R. Gelles-Watnick, "Americans' Use of Mobile Technology and Home Broadband" (January 31, 2024)

Exhibit 1002

NTECH objects to Exhibit 1002 under Federal Rules of Evidence ("FRE") 702 and 703 because the opinion of the expert, Dr. Almeroth, fails to satisfy the minimal requirements needed to provide an opinion.

First, Dr. Almeroth's opinion is unreliable because it does not reflect reliable application of principles and methods to the facts of the case. He fails to provide any technical explanation with citation to evidence on why a person of ordinary skill in the art ("POSITA") would have been motivated to combine elements from

specific references (for example, Ex. 1004 (Cristofalo) and Ex. 1005 (Marcus '904)) in the way the claimed invention does. Instead, he provides only "vague and unexplained" statements. Paper 9 (Institution Decision) at 16; *TQ Delta, LLC v. CISCO Sys., Inc.*, 942 F.3d 1352, 1358-61 (Fed. Cir. 2019) ("Conclusory expert testimony does not qualify as substantial evidence.") (citation omitted).

Second, Dr. Almeroth's opinion which is the basis for Petitioner's arguments is not the product of sound reliable scientific principles and methods. His rationale appears to rest on impermissible hindsight and, as the Board found, "appears to be superfluous." Paper 9 at 16.

Third, Dr. Almeroth's opinion does not rest on reliable or sufficient facts. He relies upon and bases his opinions on improper hearsay and unauthenticated documents, as identified below. Such documents are not reliable information that provide the groundwork for a scientifically sound expert opinion, particularly as it relates to the views of a POSITA in a certain timeframe.

Fourth, Dr. Almeroth fails to provide any explanation on how he qualifies as a POSITA under Petitioner's definition. Petitioner's proposed POSITA definition is: "at least a Bachelor of Science in electrical engineering, computer engineering, or similar fields and at least two years of practical experience in the field of media processing and/or transmission. More education can supplement for less practical experience, and vice versa." Paper 2 (Petition) at 9. Dr. Almeroth states that he

"meet[s] these criteria now and met them at the time of the alleged invention," but provides no explanation on how his knowledge and background meet such criteria. Ex. 1002, ¶ 49.

Exhibits 1010, 1012, 1015, and 1022

NTECH objects to Exhibits 1010, 1012, 1015, and 1022 under FRE 801-803 as constituting or containing inadmissible hearsay. Exhibits 1010, 1012, 1015, and 1022 contain out-of-court statements that are offered for the truth of the matter asserted therein. Any use of such hearsay cannot form the basis of any reasonably reliable argument that is not hindsight-based.

NTECH also objects to Exhibits 1010, 1012, 1015, and 1022 under FRE 901 as lacking evidence of authentication. Exhibits 1010, 1012, 1015, and 1022 have not been shown to be self-authenticating, and Petitioner has not produced any evidence sufficient to support a finding that the exhibits are what Petitioner claims them to be. Use of unauthenticated documentations is not reasonable, particularly to the extent they are relied upon for the truth of the matter asserted.

NTECH also objects to Exhibit 1022 under FRE 401 and 402 as lacking relevance because it post-dates the priority date of the challenged patent.

Respectfully submitted,

Dated: March 24, 2025

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CERTIFICATE OF SERVICE

The undersigned certifies, in accordance with 37 C.F.R. § 42.6(e), and pursuant to agreement by the parties that filing with the Board through the Patent Trial and Appeal Case Tracking System (P-TACTS) and e-mailing an electronic copy to counsel of record for Petitioner constitutes electronic service, service was made on Petitioner as detailed below.

Date of service	March 24, 2025
Manner of service	Electronic Filing and Electronic Mail (jimglass@quinnemanuel.com; ogizivojnovic@quinnemanuel.com; qe-bytedance-ntech-iprs@quinnemanuel.com)
Documents served	PATENT OWNER'S OBJECTIONS TO EVIDENCE UNDER 37 C.F.R. § 42.64
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