

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RØDE MICROPHONES, LLC AND
FREEDMAN ELECTRONICS PTY LTD,
Petitioners

v.

ZAXCOM, INC.,
Patent Owner

IPR2025-00230
U.S. Patent No. 7,711,443

Patent Owner's Opposition to Petitioners' Motion to Exclude

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I. Introduction

Pursuant to the Board’s Scheduling Order (Paper 15, filed June 16, 2025), Patent Owner (“PO”) timely submits this opposition to Petitioners’ Motion to Exclude (Paper 65, filed February 23, 2026) (“Motion”).

Petitioners seek to exclude Exhibits 2131 and 2132 on the theory that, because the documents are dated in 2013, they are irrelevant to conception, diligence, and reduction to practice. In substance, however, Petitioners do not identify a true evidentiary defect under the Federal Rules of Evidence (“FRE”). Instead, they argue that the exhibits are insufficient to establish what PO contends regarding priority. That is a merits argument concerning the weight of the evidence, not its admissibility.

The Consolidated Trial Practice Guide (“CTPG”) makes clear that “[a] motion to exclude must explain why the evidence is not admissible (e.g., relevance or hearsay) but may not be used to challenge the sufficiency of the evidence to prove a particular fact.” CTPG at 79. Petitioners’ Motion does precisely what the CTPG prohibits.

Because Exhibits 2131 and 2132 are relevant and admissible, and because Petitioners’ arguments go only to the weight the Board may assign them, the Motion should be denied.

II. Exhibits 2131 and 2132 Are Relevant

FRE 401 states that the evidence is relevant if “(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.” FRE 401. FRE 402 recites that relevant evidence is admissible unless an exception applies, and irrelevant evidence is inadmissible. FRE 403 states that the “court may exclude relevant evidence if its probative value is **substantially outweighed** by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.” FRE 403 (emphasis added).

“Both the Federal Circuit and the Board have recognized that there is a ‘low threshold for relevancy.’” *Intel Corp., et al., v. Alacritech, Inc.*, IPR2017-01391, Paper 81 at 36 (PTAB Nov. 26, 2018) (citing *OddzOn Prods., Inc. v. Just Toys, Inc.*, 122 F3d 1396, 1407 (Fed. Cir. 1997)). *See also Laird Techs., Inc. v. GrafTech Int’l Holdings, Inc.*, IPR2014-00025 Paper 45 at 44 (PTAB Mar. 25, 2015). Evidence need not conclusively establish a fact to be admissible. It only has to have some tendency to make a fact more or less probable.

Exhibits 2131 and 2132 are user manuals for Zaxcom transmitters that embody the technology claimed in the ‘443 Patent. They describe, in technical detail, the functionality of the TRX900 product. The TRX900 is not a “different

product” as contended by Petitioners. (Paper 65 at 2). It is clear from the exhibits themselves that all three of these products (i.e., the TRX900AA, TRX900LA, and TRX900LAS) are all variations of the TRX900 product having the same core architecture as relevant to the claims. The base product identifier is TRX900 (i.e., the product) and the suffixes merely indicate a product variant, as is common in product naming. The additional add-ons to the product name that are indicated by each suffix merely signify minor feature variations of the products: the TRX900AA is a version of the TRX900 that runs on AA batteries, and the TRX900LA/LAS are mono and stereo versions of the TRX900, respectively. *See* Exs-2131 at 5 (“The TRX-900AA will use 2 AA batteries.”); *see also* Exhibit 2132. *See also Wisconsin Alumni Research Foundation v. Apple Inc.*, Case Nos. 2022-1884, 2022-1886 (Fed. Cir. 2024) (concluding that later variations of the Apple processors (comparing A7/A8 to A9/A10) were “essentially the same” products, and barring the plaintiff from suing the defendant again.) Additionally, these manuals use “TRX900” interchangeably with TRX900AA & TRX900LAS, respectively. *See*, e.g., Ex-2131 at 16 (“This allows you to set your TRX-900 to a ‘GROUP’ ... This assigns a unique number identify the TRX-900 within a particular group.”); *Id.* at 31 (“Updating an ERX with your TRX-900”); Ex-2132 at 8 (“The TRX-900 will lock to and record all standard timecode frame rates.”); *Id.* at 13 (“When the TRX-900 searches for TC...”). It is correct that all of these products are “the [TRX900]

product...introduced in 2005” (Ex. 2155, ¶ 2-3) as the TRX900 core architecture is present in all products, which *all* include the integrated wireless transmission and recording features that PO relies upon in establishing conception and reduction to practice.

Petitioners’ statement that “Zaxcom has provided no evidence that it was selling the products described in these 2013 manuals—the TRX900AA, TRX900LA, and TRX900LAS transmitters—eight years earlier, in 2005,” is factually incorrect. These exhibits are cited in the Patent Owner Response “POR” (*see, e.g.,* Paper 23 at 59) and are supported by sworn testimony. Mr. Sanders states that although the copies of the manuals are dated June 2013 and May 2013, respectively, the relevant functionality “have not changed since the product[s] [were] introduced in 2005.” Ex. 2155, ¶ 2-3; *see also* Ex. 2029, ¶ 3. He further explains that the manuals were created at his discretion to describe the features and operations of the products. Ex. 2155, ¶ 2-3.

PO’s expert, Mr. DeFilippis (Ex. 2140), analyzes the manuals and explains how the described functionality corresponds to the challenged claims. *See also* Ex. 2140, ¶ 289 (“The products for which the inventors received the Emmy award, the Technical Achievement Award from the Academy Award of Motion picture Arts and Sciences, and other industry praise include the TRX900AA, TRX900LA, and TRX900LAS ... [T]hese products contain all of the limitations recited in the

challenged claims.” Petitioners dismiss the fact that Mr. Sanders had a working prototype of the TRX900 at the April 2005 NAB Conference (*see* Exs. 2109A-C). In these videos (Exs. 2109A-C), Mr. Sanders can be seen operating a TRX900 where he physically manipulates and explains the functionality of the TRX900 (as also described in Exs. 2131 and 2132), which embodies the ‘443 Patent’s claimed subject matter. The TRX900 is also seen in an advertising banner behind Mr. Sanders. Ex-2109A. In Ex. 2109B, remote control and backup recording/transmission are described at 0:07 and 0:30 seconds, respectively. These videos confirm that the invention was conceived prior to April 20, 2005, as the TRX900 shown at NAB were completed by PO prior to the NAB Conference’s April 17, 2025 start date. Thus, Exhibits 2131 and 2132 are not offered in isolation; they are part of a technical evidentiary record tying the product line’s functionality to the claimed invention.

Because these manuals describe the operation of the TRX900 product line, and because sworn testimony establishes that the relevant features existed when the product was introduced in 2005, the manuals plainly tend to make conception and reduction to practice more probable than they would be without the evidence. That satisfies FRE 401.

In either event, Petitioners’ factually incorrect assertion that “Zaxcom has provided no evidence that it was selling the products described in these 2013

manuals ... eight years earlier, in 2005” (Paper 65 at 1–2) concerns the weight of the evidence, not its relevance. The fact that a manual bears a 2013 revision date does not render it irrelevant to the functionality of the product introduced in 2005, particularly where sworn testimony explains that the relevant features did not materially change. Product manuals are routinely updated for formatting, clarifications, and revisions unrelated to the core architecture. The relevant question under FRE 401 is not whether the manual itself was printed in 2005, but whether it tends to shed light on the functionality of the TRX900 system—which it does. The fact that the owner’s manual is dated later doesn’t mean it doesn’t accurately describe the product that was sold earlier. All these products are identical to the TRX900 from 2005 and the original invention.

Here, Mr. Sanders testifies that the TRX900AA and LA/LAS products are variations of the original TRX900 and that the relevant functionality has remained unchanged since introduction. Ex. 2155, ¶ 1-3. Petitioners had previous opportunities to dispute this (*see, e.g.,* Paper 43 (Reply to Patent Owner’s Response)) as this dispute goes to the credibility and weight of the evidence, not to admissibility. The Petitioners were required to address these issues in its merits papers – not in its motion to exclude. CTPG at 79.

Petitioners acknowledge that the 2005 NAB Conference video depicts the TRX900 product. Paper 65 at 2 (citing Ex. 2109A) (“Patent Owner cites a video

from the 2005 NAB Conference depicting Mr. Sanders demonstrating a product called the TRX900.”) What they conveniently omit, however, is that the substance of that demonstration aligns with the functionality of the products described in Exhibits 2131 and 2132. The manuals provide detailed technical descriptions of the same system architecture publicly demonstrated in 2005. The manuals therefore serve as technical documentation that helps the Board understand the features of the TRX900 system demonstrated in 2005. That is directly relevant to the issues of conception and reduction to practice.

Petitioners do not meaningfully argue that the manuals create unfair prejudice, confusion, or cumulative presentation under FRE 403. These are technical documents in a trial before the Board. There is no risk of jury confusion or emotional prejudice. Any disagreement about the significance of the manuals can be addressed through substantive argument.

Accordingly, Exhibits 2131 and 2132 satisfy FRE 401 and there is no basis for exclusion under FRE 403.

III. Petitioners’ Corroboration Arguments Go To Weight And Are Improperly Addressed in a Motion to Exclude

Petitioners argue that “the only connection between these 2013 manuals and what happened in 2005 is Mr. Sanders’s *uncorroborated testimony* that the 2005 and 2013 products had the same features.” Paper 65 at 3. That is not a basis to

exclude Exhibits 2131 and 2132. At most, it is an argument about how much weight the Board should assign those exhibits in the priority analysis, and a motion to exclude is not the proper vehicle for such argument. “A motion to exclude is not a vehicle for addressing the weight to be given evidence—arguments regarding weight should appear only in the merits documents.” CTPG at 79.

Petitioners rely on the Federal Circuit’s corroboration requirement to conclude that Mr. Sanders’ testimony must be corroborated. However, the Federal Circuit’s corroboration requirement addresses the sufficiency and credibility of inventor evidence and is applied under a flexible “rule of reason” that considers the entire evidentiary record. It does not impose an admissibility bar that would justify excluding technical manuals from the record.

Petitioners cite *Singh v. Brake* for this proposition that inventor testimony offered to prove conception must be corroborated. *Singh*, however, does not support Petitioners’ leap from “requiring corroboration” to later-created manuals “are irrelevant as a matter of law” (Paper 65 at 4 and 3, respectively). To the contrary, *Singh* reiterates that corroboration is determined under a rule of reason analysis. “[W]hether a putative inventor's testimony has been sufficiently corroborated is determined by a ‘rule of reason’ analysis, in which ‘an evaluation of all pertinent evidence must be made so that a sound determination of the credibility of the inventor's story may be reached.’” *Singh v. Brake*, 317 F.3d 1334,

1341 (Fed. Cir. 2003) (quoting *Price v. Symsek*, 988 F.2d 1187, 1195 (Fed. Cir. 1993)). *See also Berry v. Webb*, 412 F.2d 261, 266 (CCPA 1969) ("[t]here is no single formula that must be followed in proving corroboration."); *Coleman v. Dines*, 754 F.2d 353, 360 (CCPA 1985) (determining that an evaluation of *all* pertinent evidence must be made so that a sound determination of the credibility of the inventor's story may be reached). Petitioners' approach effectively demands a one-document, one-date perfect match. However, that is *not* the Federal Circuit standard.

Petitioners contend that Mr. Sanders' testimony linking the TRX900 shown in 2005 to the functionality described in the TRX900AA/LA/LAS manuals is "entirely uncorroborated." Paper 65 at 3. That assertion is wrong on this record. Under the rule of reason, PO has introduced *multiple independent sources* that support Mr. Sanders' account and make it more probable that the functionality described in Exhibits 2131 and 2132 reflects the TRX900 product line as demonstrated in 2005.

For example, Exhibits 2109A-C depict Mr. Sanders publicly demonstrating and describing the TRX900 in 2005, including functionality consistent with the wireless and recording in a body pack concept. Exhibits 2110-2114 (Emmy Award Photos & Technical Achievement Awards) and 2128-2130 (68th Engineering Emmy Awards Program, Engineering Emmy Awards Press Release, and Engineering

Emmy Awards Entry Form, respectively) describe the TRX900 system's digital wireless transmission and on-pack/local recording capability in language consistent with what is described in the manuals. *See, e.g.,* Ex. 2128 at 11 ("Starting in 2002, Zaxcom developed and produced a digital wireless transmission system for microphones. Recently, Zaxcom invented a production tool that married wireless transmission with a recording device located within the actor's body pack."); Ex. 2129 at 3 ("Its innovative products include the first digital wireless transmission system for microphones and a production tool that married wireless transmission with a recording device located within the actor's body pack."); Ex. 2114 ("Zaxcom system [has created] a fully digital modulation system with a rich feature set, which includes local recording capability within the belt pack and a wireless control scheme providing real-time transmitter control and time-code distribution."). Exs. 2126 and 2127 include testimony from Mr. Wexler and Mr. Sarokin, respectively, describing the TRX900 product and its functionality in terms consistent with the manuals. *See, e.g.,* Ex. 2126, ¶ 1, 5-7; Ex. 2127, ¶ 1, 5-8. Lastly, PO's expert, Mr. DeFilippis (Ex. 2140), explains how the challenged claims map to the functionality described in Exs. 2131 and 2132.

Taken together, this is precisely the type of surrounding facts and circumstances that the rule of reason framework contemplates. Petitioners may disagree about whether the record ultimately proves what PO contends about

conception, diligence, or reduction to practice, but those are merits arguments for the Board's final evaluation. They are not grounds to exclude Exhibits 2131 and 2132.

Petitioners repeatedly emphasize that Exs. 2131 and 2132 are "eight years too late." Paper 65 at 3. But timing is not an automatic admissibility rule for the Federal Circuit's corroboration rule. The question is whether the manuals tend to make the inventor's account more or less credible. Here, the manuals are detailed technical documents describing the TRX900 product line's operation. When combined with the 2005 demonstration evidence and third-party descriptions recognizing the same core functionality, the manuals are probative and properly considered.

IV. Conclusion

For the foregoing reasons, Exhibits 2131 and 2132 are plainly relevant and admissible under the FRE. Petitioners' arguments concern the weight and persuasiveness of the evidence, not any basis for exclusion. Accordingly, the Board should deny Petitioners' Motion in its entirety.

Date: March 2, 2026

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CERTIFICATE OF SERVICE

The undersigned certifies that on March 2, 2026, a complete and entire copy of the foregoing “PATENT OWNER’S OPPOSITION TO PETITIONERS’ MOTION TO EXCLUDE” is being served on the petitioners at the electronic addresses shown below per consent:

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