

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

REPLY IN SUPPORT OF PETITIONERS' MOTION TO EXCLUDE

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Pursuant to 37 C.F.R. §§ 42.23 and the Consolidated Trial Practice Guide (“CTPG”), Petitioners respond as follows to Patent Owner’s Opposition to Petitioners’ Motion to Exclude (Paper 67) (“Opp.”). Patent Owner’s Opposition does not dispute the fundamental problem with the two exhibits Petitioner challenges (Exs. 2131 and 2132): Patent Owner attempts to use documents from 2013 to show that the purported invention of the challenged claims was conceived of and reduced to practice in 2005, ***eight years earlier***. Evidently, Patent Owner either lacks contemporaneous evidence of conception and reduction to practice or chose not to submit it. Without the requisite contemporaneous proof, Patent Owner resorts to claiming that specific features described in the 2013 product manuals existed in 2005. But the 2013 manuals do not show what, if anything, the inventor conceived of and reduced to practice nearly a decade earlier. Instead, Patent Owner asserts that the relevance of these documents is established by other evidence in the record (or attorney argument), none of which makes the 2013 documents relevant to answering questions about what happened in 2005.

I. Exhibits 2131-2132 Are Irrelevant to Conception and Reduction to Practice in 2005

Unsurprisingly, Patent Owner seeks to characterize all of the various Zaxcom transmitter products as a singular “TRX900 product.” Opp. at 2, 3-4 (“[A]ll of these products are ‘the [TRX900] product...introduced in 2005....’”). Other than the inventor’s vague statements that the features in the 2013 manuals “have not changed since the product was introduced in 2005,” Ex. 2155 ¶¶ 2-3, there is no evidence that the TRX900AA and TRX900LA/LAS, or any of their features, were introduced in 2005.¹ In effect, Patent Owner is trying to have the inventor

¹ Notably, Patent Owner’s opposition asserts that Mr. Sanders’ sworn testimony was that “the **relevant** functionality ‘have not changed since the product[s] [were] introduced in 2005.’” Opp. at 4 (emphasis added). That is not what Mr. Sanders’ declaration states. Instead, his declaration suggests, implausibly, that **none** of the features have changed since 2005, without providing any testimony about supposedly “relevant” features. Ex. 2155 ¶¶ 2-3 (“The manual is provided to

corroborate himself by using his testimony to link the 2013 manuals back to what he asserts he conceived of and reduced to practice eight years earlier. But his testimony that the features “have not changed” is facially implausible in view of the documents themselves. For example, both manuals reflect that the functionality even of these two sets of 2013 products varies depending on what firmware version they have. *E.g.*, Ex. 2131 at 31 (“Your transmitter must be running version 7.02 or higher to [use the update feature]”); Ex. 2132 at 23 (same). Moreover, the notion that these two 2013 products are the same as whatever may have been released in 2005 is undermined by the simple fact that the manuals for the two 2013 products are themselves different, which is evident from even a cursory skim of the tables of contents. *Compare* Ex. 2131 at 2-3 *with* Ex. 2132 at 2-3.

Patent Owner’s arguments to the contrary are unavailing. Patent Owner contends that the “AA” and “LA/LAS” suffixes reflect just “minor feature variations of the products.” Opp. at 3. This is just attorney speculation. For example, Patent Owner argues that “the TRX900AA is a version of the TRX900 that runs on AA batteries.” Opp. at 3 (citing Ex. 2131 at 5 (“The TRX-900AA will use 2 AA batteries.”)). But the TRX900LA/LAS manual has the exact same statement. Ex. 2132 at 5 (“The TRX-900LA/LAS will use 2 AA batteries.”). Patent Owner surmises that the “AA” in the TRX-900AA product name means the only product variation is its use of AA batteries, but nothing in the record other than Patent Owner’s opposition brief reflects that. Patent Owner also argues that the manuals use “TRX900” interchangeably, citing various places from the manuals that refer to “TRX-900” instead of the full TRX900AA or TRX900LA/LAS designations. None of those citations refer to some other version of the

detail ***the*** technical features of the [product], ***which features*** have not changed since the product was introduced in 2005.” (emphases added)).

product beyond the manual, nor do they say anything about whether any described features existed as far back as 2005.

Remarkably, Patent Owner points out that its expert “analyzes the manuals and explains how the described functionality corresponds to the challenged claims.” Opp. at 4.² This is exactly the problem. Patent Owner makes no attempt to hide that, notwithstanding all the other evidence it tries to highlight in its opposition, it ultimately is relying on 2013 manuals to establish conception and reduction to practice of the challenged claims in 2005. Patent Owner also points to videos allegedly involving a TRX900 before April 20, 2005. If, as Patent Owner asserts without support, “the substance of [the video] demonstration aligns with the functionality of the products described in Exhibits 2131 and 2132,” Opp. at 7, it begs the question why Patent Owner relies on the 2013 manuals at all. Indeed, it is a tacit admission that Patent Owner’s other contemporaneous evidence does not show conception and reduction to practice by the requisite time. The problem for Patent Owner is that the high-level demonstration of an earlier product in the videos also does not establish that the specific information in the 2013 manuals is relevant to what happened eight years earlier.

Patent Owner contends all the information spanning eight years is equivalent because it all just refers to a “TRX900 product line.” Opp. at 5. That is unsupported attorney speculation and obviously wrong. There is no “TRX900 product line” manual, there are *two different* 2013 manuals. Nothing makes those 2013 manuals relevant to 2005, other than the inventor’s uncorroborated and conclusory testimony that the features “have not changed since the product

² As support, Patent Owner further points out that the 2013 products received industry praise. Opp. at 4 (citing Ex. 2140 ¶ 289). But this industry praise is from 2016, even further divorced from 2005. Industry awards in 2016 do nothing to establish what the inventor conceived of and reduced to practice in 2005.

was introduced in 2005.” This simply cannot render the 2013 manuals relevant to answer a question about what happened in 2005.

Finally, Patent Owner contends that there is sufficient corroboration for the inventor’s statement that the “features have not changed since the product was introduced in 2005.” Opp. at 7-11. Patent Owner first points to Exhibits 2109A-C. At best, these videos show that Mr. Sanders demonstrated a TRX900 in 2005; they do not corroborate his statement—made in 2025—that the features of the products in the 2013 manuals have not changed since 2005. Next, Patent Owner points to Exhibits 2110-2114 and 2128-2130, which reflect awards that the 2013 products received in **2016**. While they provide some generalized background about Zaxcom, they similarly do not corroborate that the features in the 2013 manuals have not changed since 2005. Next, Patent Owner claims the declarations of Mr. Wexler and Mr. Sarokin corroborate the inventor’s statement. But neither declaration addresses either 2013 manual, much less say anything about whether the features described in those manuals existed in 2005. Finally, Patent Owner points to its expert’s declaration, mapping the challenged claims to the 2013 manuals. Mr. DeFilippis’s declaration does nothing to corroborate that what he mapped from the 2013 manuals to the claims existed as of 2005. Ultimately, none of this other evidence does anything to corroborate the inventor’s statement that the features in the 2013 manuals “have not changed” since 2005. Instead, Mr. Sanders’s declaration serves only to corroborate himself, and further demonstrates that Patent Owner’s reliance on Exhibits 2131 and 2132 is improper. Without corroboration for Mr. Sanders’s statement, the 2013 manuals have no connection and no relevance to 2005.

II. Conclusion

For these reasons, Petitioners respectfully request that the Board exclude Exhibits 2131 and 2132 as irrelevant to the issue of what was conceived of and reduced to practice in 2005.

Date: March 9, 2026

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CERTIFICATE OF SERVICE

The undersigned certifies that on March 9, 2026, a complete and entire copy of the foregoing “REPLY IN SUPPORT OF PETITIONERS’ MOTION TO EXCLUDE” is being served on the Patent Owner at the electronic addresses shown below per consent:

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Patent Owner agreed to have the above-listed counsel accept electronic service in its December 23, 2004 Mandatory Notices. *See* 37 CFR § 42.105(b) (“Upon agreement of the parties, service may be made electronically....”).

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