Filed on behalf of Proxyconn, Inc.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MICROSOFT CORPORATION

Petitioner

v.

PROXYCONN, INC.

Patent Owner

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Case IPR2012-00026
Case IPR2013-00109
Patent 6,757,717 B1

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**PROXYCONN, INC'S OPPOSITION TO MICROSOFT'S
<u>CORRECTED MOTION TO EXCLUDE EVIDENCE</u>**

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Patent Owner Proxyconn, Inc. ("Proxyconn") submits this memorandum in opposition to "Microsoft Corporation's Corrected Motion to Exclude Evidence" (Paper No. 56). Microsoft's Motion requests exclusion of Proxyconn's technical expert, Dr. Alon Konchitsky. Because Dr. Konchitsky has provided relevant, helpful, and reliable expert testimony in this proceeding—consistent with FRE 702 and *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579 (1993)—Microsoft's motion should be denied.

I.   Introduction

This proceeding concerns technology for addressing issues (particularly speed) involved when a client computer requests data for a remote computer. Based on the prior art selected by Microsoft, Patent Owner Proxyconn submitted the expert declaration of Dr. Alon Konchitsky. Dr. Konchitsky is well-versed in data communications networks, having (among other things) designed such systems for cellular communications networks. He holds a bachelor's degree in Computer Science, is a Professional Engineer (Electrical Engineering), and holds a Ph.D. in Electrical Engineering. In 1997,[1] he wrote his thesis on Migration from central [cloud] computing to personal computing [pc]." Dr. Konchitsky is well-versed in the technology at issue, and offered cogent, reliable, and relevant testimony comparing the patent-in-suit to the prior art at issue in this proceeding.

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[1] The '717 patent was filed on September 16, 1999.

Microsoft wishes to exclude Proxyconn's proffered expert for strategic reasons, but must resort to irrelevant side issues, and distort Dr. Konchitsky's testimony, to support its position. Indeed, Microsoft's argument is essentially that Dr. Konchitsky should be excluded because Microsoft's proffered technical expert, Dr. Darrell Long, says so. Specifically, Dr. Long presented a laundry list of trivia items that, he says, an expert "should" know but which Dr. Konchitsky allegedly does not. Microsoft's approach is flawed for multiple reasons. Specifically, Microsoft presents no corroborating evidence supporting its arguments. Rather, Microsoft relies on the *ipse dixit* of Dr. Long. Even with that, to make its arguments Microsoft is forced to amend its definition of a person of ordinary skill in the art (again unsupported by testimony) and distort Dr. Konchitsky's deposition testimony. These failings in Microsoft's motion are shown in detail below.

Microsoft's motion represents an effort to distract from the core issues of this case, on which Dr. Konchitsky is demonstrably qualified to provide expert testimony. Because Dr. Konchitsky meets the requirements of FRE 702, as shown below, Microsoft's motion should be denied.

II.   Relevant Facts

A.   The Technology at Issue

The '717 patent at issue in this proceeding is entitled "System and Method for Data Access." Ex. 1001, p. 1 at (54). According to its statement of the "Field

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