

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SYNOPSYS, INC.
Petitioner

v.

Patent of MENTOR GRAPHICS CORPORATION
Patent Owner

Case IPR2012-00042 (SCM)
Patent 6,240,376 B1

**PETITIONER'S OBJECTIONS TO PATENT OWNER'S EXHIBITS IN
SUPPORT OF RESPONSE, PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

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SUPPORT OF RESPONSE, PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

Petitioner Synopsys, Inc. hereby objects to the exhibits submitted by Patent Owner in support of its Response:

Petitioner objects to Patent Owner’s submission of exhibits under 37 C.F.R. § 42 (“Trial Practice Before the Patent Trial and Appeal Board”). These rules require that “exhibit label must be affixed to the lower right corner of the first page of the exhibit without obscuring information on the first page or, if obscuring is unavoidable, affixed to a duplicate first page.” 37 C.F.R. § 42.63(d)(2)(ii). Exhibit labels must include the filing party’s name, a unique exhibit number, the names of the parties and the trial number. 37 C.F.R. § 42.63(d)(1)(ii). None of the three exhibits Patent Owner submitted in support of its response bears an exhibit label.

This is all the more problematic because MG 2029 contains 18 discrete exhibits—none displaying exhibit labels. Adding to the potential confusion, Patent Owner did not bother to remove exhibit numbers and other identifying information on the many documents that it has apparently repurposed from multiple district court litigations. The result is that some exhibits contain a bewildering array of identifying data. For example, at least one document submitted by Patent Owner contains *five* separate page numbers as well as coding from various courts and government agencies (*see* MG 2029 at 212).

Patent Owner filed 18 discrete exhibits into “one” super-exhibit spanning 304 pages. (*See* MG 2029). The first page of this omnibus submission is inexplicably designated “Exhibit 2,” an apparent holdover label from a previous district court submission. The rest of the exhibits inside this super-exhibit are numbered non-sequentially, jumping from “Exhibit 21” (*see* MG 2029 at 177-87) to “Exhibit 27” (*see* MG 2029 at 188-98) to “Exhibit 30” (*see* MG 2029 at 199-200). This submission *en masse* of 18 exhibits in one document, without exhibit labels, violates the Board’s requirement that “[e]ach exhibit must have an exhibit label.” 37 C.F.R. § 42.63(d)(1).

Patent Owner’s manner of filing exhibits invites confusion that will follow these documents throughout the life of this trial. For instance, the lack of required exhibit labels may cause difficulties in referencing documents at oral argument.

For these reasons, Petitioner objects to all three of Patent Owner’s exhibits in support of its Response on the ground that they fail to comply with the Board’s rules governing submission of exhibits.

Petitioner also objects to the exhibits designated MG 2028 and MG 2029 on the ground that they were not accompanied by a declaration authenticating the hundreds of pages of documents, from a wide range of sources, that they contain. Patent Owner’s Response identifies these exhibits as the “declaration[s]” and associated exhibits of Michael Sapoznikow (MG 2028) and Patrick M. Bible (MG

2029) as filed May 31, 2013 in Case 3:10-cv-00954-MO in the District of Oregon. (See Response at v.) However, Patent Owner failed to include the actual declarations (or any declarations) to authenticate the associated exhibits.

In addition, Petitioner objects to the exhibit designated MG 2028 on the grounds that it is incomplete, irrelevant and constitutes inadmissible hearsay.

Petitioner objects to MG 2029, an exhibit containing 18 discrete exhibits and running 304 pages. To the extent Patent Owner presents it as a single document, Petitioner objects on the grounds that there is no basis or foundation indicating that these pages are a single document. Petitioner objects to its authenticity as being presented as a single exhibit. Petitioner further makes the following particularized objections to the exhibits contained inside MG 2029.¹

MG Page Nos.	Exh. No.	Description/Title	Objections
46-55	10	Defendant's Responses to Mentor Graphics Corp.'s First Set of Requests for Admissions	Inadmissible hearsay, lack of authentication, foundation
56-60	11	Declaration of Luc Burgun in Support of Defendants' Motion to Transfer	Inadmissible hearsay, lack of authentication, foundation

¹ For convenience, Petitioner refers here to the page numbers corresponding to MG 2029 as marked in the center-bottom of each page. Where there are multiple page numbers in the center-bottom of a page, Petitioner refers to the number that aligns evenly with "MG 2029." As to "Exhibit Number" in this table, Petitioner refers to the exhibit numbers contained inside MG 2029.

MG Page Nos.	Exh. No.	Description/Title	Objections
61-68	15	Defendants' Initial Disclosures	Inadmissible hearsay, lack of authentication, foundation, irrelevant
69-70	17	EVE: Looking Back on the Path Forward	Inadmissible hearsay as it was authored by a third party; lack of authentication, foundation
71-170	18	First Amended Complaint for Patent Infringement	Inadmissible hearsay, lack of authentication, foundation. Pleadings are not evidence. <i>See Pullman Co. v. Bullard</i> , 44 F.2d 347, 348 (5th Cir. 1930)
171-73	19	Corporate Disclosure Statement	Inadmissible hearsay, lack of authentication, foundation
174-76	20	LinkedIn profile of Luc Burgun	Inadmissible hearsay, lack of authentication, foundation
177-87	21	Answer to First Amended Complaint for Patent Infringement	Inadmissible hearsay, lack of authentication, foundation

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