

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Sipnet EU S.R.O.,

Petitioner

v.

Straight Path IP Group, Inc.,

Patent Owner

Case No. IPR2013-00246

U.S. Patent No. 6,108,704

Before KALYAN K. DESHPANDE, THOMAS L. GIANNETTI, and TRENTON
A. WARD, *Administrative Patent Judges*.

**PATENT OWNER'S OBJECTIONS TO EXHIBITS
PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

October 25, 2013

In accordance with 37 C.F.R. § 42.64, Straight Path IP Group, Inc. (“Patent Owner”) objects to the admissibility of the following exhibits submitted by Sipnet EU S.R.O. (“Petitioner”) for the following reasons.

1. Petitioner’s Exhibit 1005 (WINS Release) in the Petition is objected to because it is hearsay under Federal Rule of Evidence (“FRE”) 801 and inadmissible under FRE 802-807.¹ Exhibit 1005 purports to be a printout of the Wikipedia entry “Windows NT 3.5.” The Board has already found Wikipedia entries to be “inherently untrustworthy.”² As a result, Exhibit

¹ See, e.g., *St. Clair v. Johnny’s Oyster & Shrimp, Inc.*, 76 F. Supp. 2d 773, 774-75 (S.D. Tex. 1999) (“While some look to the Internet as an innovative vehicle for communication, the Court continues to warily and wearily view it largely as one large catalyst for rumor, innuendo, and misinformation. So as to not mince words, the Court reiterates that this so-called Web provides no way of verifying the authenticity of the alleged contentions that Plaintiff wishes to rely upon in his Response to Defendant’s Motion. There is no way Plaintiff can overcome the presumption that the information he discovered on the Internet is inherently untrustworthy. Anyone can put anything on the Internet. No web-site is monitored for accuracy and *nothing* contained therein is under oath or even subject to independent verification absent underlying documentation. Moreover, the Court holds no illusions that hackers can adulterate the content on *any* web-site from *any* location at *any* time. For these reasons, any evidence procured off the Internet is adequate for almost nothing, even under the most liberal interpretation of the hearsay exception rules found in FED. R. CIV. P. 807.”) (emphasis in original); see also, e.g., *Novak v. Tucows, Inc.*, No. 06-CV1909 (JFB) (ARL), 2007 U.S. Dist. LEXIS 21269, *17-18 (E.D.N.Y. Mar. 26, 2007).

² See, e.g., *Ex parte Bailey*, No. 2010-010310, Application No. 11,168,650, 2013 Pat. App. LEXIS 2470 (Pat. App. Apr. 25, 2013) (“Wikipedia has limited probative value in view of its dubious reliability. Among other things, Wikipedia is not peer reviewed, the authors are unknown, and apparently anyone can contribute.”).

1005 is inadmissible hearsay that does not fall under any hearsay exception.

2. Exhibit 1005 is objected to because it has not been authenticated as required by FRE 901. As stated above, Exhibit 1005 purports to be a Wikipedia entry for Windows NT 3.5. Petitioner has not proffered any testimony or sworn testimony attesting to the authenticity of the contents in Exhibit 1005.³ In addition, Exhibit 1005 is not a self-authenticating document. As a result, Exhibit 1005 is inadmissible as lacking authentication under FRE 901.

These objections are being timely served within 10 business days of the institution of trial, in accordance with 37 C.F.R. § 42.64(b)(1). The institution of trial in this matter occurred on October 11, 2013.

Respectfully Submitted,

Date: October 25, 2013

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³ See, e.g., *Novak*, 2007 U.S. Dist. LEXIS 21269, *17-18 (“As Novak proffers neither testimony nor sworn statements attesting to the authenticity of the contested web page exhibits by any employee of the companies hosting the sites from which plaintiff printed the pages, such exhibits cannot be authenticated as required under the Rules of Evidence.”) (citations omitted).

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this PATENT OWNER'S OBJECTIONS TO EXHIBITS PURSUANT TO 37 C.F.R. § 42.64(b)(1) was served, by agreement of the parties, by electronic mail on counsel for the Petitioner on October 25, 2013 as follows:

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Dated: October 25, 2013

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