

# Exhibit 2020

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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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WAVEMARKET, INC. D/B/A LOCATION LABS  
Petitioner

v.

LOCATIONNET SYSTEMS, LTD.  
Patent Owner

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Case No. IPR2014-00199  
U.S. Patent 6,771,970

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**PATENT OWNER'S EVIDENTIARY OBJECTIONS  
PURSUANT TO 37 C.F.R. § 42.64**

***\*\*Service Only\*\****

**I. INTRODUCTION**

Pursuant to 37 C.F.R. § 42.64(b), Patent Owner LocatioNet Systems, Ltd. respectfully asserts the following objections to the evidence proffered with the Petitioner's Reply to Patent Owner's Response of November 10, 2014. The Federal Rules of Evidence ("FRE") apply to these proceedings according to the provisions of 37 C.F.R. § 42.62(a), and these rules form the basis of the objections contained herein. These objections are being served within five business days from the date Petitioner's Reply and its accompanying evidence were served on Patent Owner.

**II. OBJECTIONS TO EXHIBIT 1020 – DECLARATION OF CRAIG ROSENBERG**

The Declaration of Craig Rosenberg ("Exhibit 1020") is inadmissible under FRE 402, 403, 702 and 703. Exhibit 1020 fails to assist a trier of fact to understand or determine a fact in issue, is based upon insufficient facts or information, is not the product of reliable principles and methods, does not reliably apply the principles and methods to the facts of this case, and/or its probative value is substantially outweighed by the risk of prejudice, confusion and/or delay. *See* FRE 702.

First, the opinion testimony set forth in Exhibit 1020 is fatally flawed because it fails to assist a trier of fact to understand or determine a fact in issue and is based upon insufficient facts or information. Notably, Dr. Rosenberg has failed to establish that the opinions contained in Exhibit 1020 qualify as those of a person having ordinary

skill in the art. As set forth by Patent Owner’s expert, Dr. Mandayam, the undisputed qualifications of a person of ordinary skill in the art are: “In the field of the invention claimed in the ‘970 patent, a person of ordinary skill in the art has a bachelor of science in computer science, electrical engineering or a comparable degree and at least two years of experience and knowledge in wide area communications systems such as cellular, including system level issues related to active mobile location tracking.” *See* Ex. 2016 at 5. Indeed, Dr. Rosenberg does not contest this definition of a person of ordinary skill in the art, nor does he possess such qualifications. *See* Ex. 1020 at 2–5. Likewise, Dr. Rosenberg also does not qualify as a person of ordinary skill in the art under the definition set forth in the Declaration accompanying the IPR petition. *See* Ex. 1013 at 6. Thus, Exhibit 1020 is inadmissible pursuant to FRE 402, 702, and 703.

Second, Exhibit 1020 is not the product of reliable principles and methods and does not reliably apply the principles and methods to the facts of this case.

“Affidavits expressing an opinion of an expert must disclose the underlying facts or data upon which the opinion is based.” *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,763; FRE 705; 37 C.F.R. § 42.65. The opinions set forth in Exhibit 1020 are conclusory and fail to apply any relevant and reliable analysis to the facts of the case. *See Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 589 (1993). For example, in paragraph 18 of Exhibit 1020, Dr. Rosenberg merely concludes that “Elliot’s disclosure of a ‘database’ clearly satisfies the requirements of

the database recited in claim 18 of the ‘970 patent” without identifying or explaining what a person of ordinary skill in the art would understand the claim term to mean in the relevant context, and applying such a definition to the facts of this case. *See* Ex. 1020 at 9; *see also, e.g., id.* at 14–16. Moreover, as discussed above, the opinions set forth in Exhibit 1020 are not a product of reliable principles and methods because Dr. Rosenberg is not qualified to opine on the perspective of a person having ordinary skill in the art. Exhibit 1020 is inadmissible pursuant to FRE 402, 702, and 703.

Third, the probative value of Exhibit 1020 is substantially outweighed by the risk of unfair prejudice, confusion and/or delay. As detailed above, Exhibit 1020 offers no actual expert testimony that would assist the Board in understanding the ordinary and customary meaning of any of the claim terms. Thus, because Dr. Rosenberg lacks the qualifications of a person of ordinary skill in the art and has failed to apply any relevant and reliable analysis to the facts of the case, Exhibit 1020 should be excluded in its entirety pursuant to FRE 402 and 403.

### **III. CONCLUSION**

Thus, pursuant to FRE 402, 403, 702 and/or 703, Exhibit 1020 is inadmissible evidence. Exhibit 1020, proffered by Petitioner in the November 10, 2014 Reply to Patent Owner’s Response, is objectionable for at least the reasons noted above. Patent Owner reserves the right to move to exclude the evidence objected to herein at the appropriate time.

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