

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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EASTMAN KODAK COMPANY, AGFA CORPORATION,  
ESKO SOFTWARE BVBA, and HEIDELBERG, USA  
Petitioners

v.

CTP INNOVATIONS, LLC  
Patent Owner

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Case IPR2014-00789  
Patent 6,738,155

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**PATENT OWNER'S SECOND MOTION TO EXCLUDE EVIDENCE**

Filed on behalf of CTP Innovations, LLC

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## I. INTRODUCTION

CTP Innovations, LLC (“Patent Owner”), pursuant to 37 C.F.R. §§ 42.62 and 42.64, respectfully moves to exclude the following exhibits from the record and the Board’s consideration in this proceeding: (1) the AGFA Apogee: The PDF-based Production System brochure (“Apogee”) (Ex. 1007 and Attachment A to Exhibit 1022); (2) the Declaration of Johan Suetens and attachments (Exhibit 1022); (3) the Declaration of Michael Jahn (Ex. 1023); and (4) the Supplemental Declaration of Johan Suetens (Ex. 1024).

Petitioners bear the burden to show that Apogee was published prior to the earliest effective filing date of the subject patent. As shown by Suetens’ testimony at his deposition, neither Apogee on its face nor Suetens’ Declaration proves that Apogee was published prior to the earliest effective filing date. For those reasons, Patent Owner filed its Motion to Exclude (Paper 18) (“First Motion to Exclude”).

Petitioners chose to treat the First Motion to Exclude as objections to Apogee and Mr. Suetens’ Declaration. In a Trojan-horse attempt to cure the fatal flaw in Apogee’s admissibility, they submitted to Patent Owner and later filed with their reply Mr. Jahn’s Declaration and Mr. Suetens’ Supplemental Declaration. The latest filed declarations, however, do not demonstrate that Apogee was published prior to the effective filing date and, for that reason alone, should be excluded. Moreover, further basis for exclusion of the declarations exists because

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