

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

CTP INNOVATIONS, LLC
Patent Owner

Case IPR2014-00790
Patent 6,611,349

PATENT OWNER'S MOTION TO EXCLUDE EVIDENCE

Filed on behalf of CTP Innovations, LLC

By: W. Edward Ramage (Lead Counsel)
Reg No. 50,810
Samuel F. Miller (Back-up Counsel)
(pending pro hac vice admission)
BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.
Baker Donelson Center
211 Commerce Street, Suite 800
Nashville, Tennessee 37201
Tel: (615) 726-5771
Fax: (615) 744-5771
Email: eramage@bakerdonelson.com
smiller@bakerdonelson.com

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I. INTRODUCTION

CTP Innovations, LLC (“Patent Owner”), pursuant to 37 C.F.R. §§ 42.62 and 42.64, moves to exclude the following exhibits from the record in this proceeding: (1) the Declaration of Johan Suetens and attachments (Exhibit 1023), and (2) the AGFA Apogee: The PDF-based Production System brochure (“Apogee”) (Ex. 1008 and Attachment A to Exhibit 1023).

Petitioners filed the Declaration of Johan Suetens and the Apogee reference with this proceeding’s original petition. Petitioners filed the Suetens Declaration to establish that the Apogee reference was published prior to the subject patent’s earliest effective filing date. *See* Suetens Decl. (Ex. 1023), at ¶ 6. Petitioners rely upon the Apogee reference to support all of their obviousness assertions.

The Board entered its decisions to institute this proceeding on November 28, 2014. Normally, a patent owner would have had to file an objection to the aforementioned exhibits within ten (10) days of entry of the institution decision. 37 C.F.R. § 42.64(b). However, on the face of the Suetens Declaration and without the benefit of his deposition, there did not appear to be a viable objection to be made. The grounds to object to these exhibits only became known through the long-delayed and recent deposition of Mr. Suetens on March 26, 2015. Mr. Suetens’ deposition testimony reveals that he completely lacks any personal knowledge of the distribution and public accessibility of the Apogee reference

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