

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 IPR2014-00791
Patent 6,611,349

DECLARATION OF W. EDWARD RAMAGE

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I, W. Edward Ramage, under penalty of perjury, declare as follows:

1. I am lead counsel of record for the Patent Owner in the above-identified IPR proceeding.

2. On March 26, 2015, I took the deposition of Mr. Suetens. The transcript of his deposition testimony has been filed as Exhibit 2016.

3. Based upon Mr. Suetens' deposition testimony, on April 2, 2015, I filed a Motion to Exclude Evidence (Paper No. 23). The motion sought to exclude the Declaration of Johan Suetens and attachments (Ex. 1023) and the AGFA Apogee: The PDF-based Production System brochure ("Apogee") (filed as Ex. 1008 and as Attachment A to Ex. 1023).

4. On April 16, 2015, I received a communication from counsel for Petitioners with copies of a Supplemental Declaration of Johan Suetens and a Declaration of Michael Jahn, which Petitioners proposed to submit as supplemental evidence.

5. On April 20, 2015, I served my written objections to the Supplemental Declaration of Johan Suetens and a Declaration of Michael Jahn (a true and correct copy of my written objections is attached hereto as Attachment A). In my objections, I specifically pointed out that the declarations did not appear to be

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supplemental evidence, as claimed by Petitioners, but instead comprised supplemental information.

6. I make this declaration of my own personal knowledge. If called to testify as to the truth of the matter stated herein, I could and would testify competently.

7. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 11 day of June, 2015, at Nashville, TN.



W. Edward Ramage

W. EDWARD RAMAGE
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April 20, 2015

Scott A. McKeown
Michael L. Kiklis
Oblon, LLP
1940 Duke Street
Alexandria, VA 22314

Via Email and U.S. Mail

RE: *Eastman Kodak Co., et al. v. CTP Innovations, LLC: IPR Nos. 2014-788, 2014-789, 2014-790, and 2014-791*

Messrs. McKeown and Kiklis:

We have received your communication of April 16, 2015. It is unclear, however, whether the response is intended to be a response to Patent Owner's Motions to Exclude or to Patent Owner's Responses, both of which were filed in each proceeding on April 2, 2015. As a preliminary matter, we note that Petitioners' characterization of either of these filings as an "Objection to Evidence" is inaccurate and procedurally impermissible.

If the response is intended to be a response to the Motions to Exclude, it is improper. The two declarations (including a third declaration as an exhibit to one of those declarations) in your communications purport to comprise "supplemental information." In truth, Petitioners are actually attempting to introduce *entirely new* evidence, including, but not limited to, entirely new art. Such introduction in either a response to a motion to exclude or a reply to a response is not permitted by any rule or precedent of the Patent Trial and Appeal Board ("PTAB"). Moreover, Petitioners are attempting to introduce this new evidence (notwithstanding its inadmissibility on other grounds) after Patent Owner submitted its responses and after discovery has closed. Not only is the submission of new evidence in the manner attempted by Petitioners a violation of PTAB rules and orders in all of the pending proceedings, such submissions are a fundamental attempt to deny Patent Owner its due process rights.

The rules do not permit ad seriatim introductions of new evidence, which is exactly what you are attempting to do here. PTAB's rules are very clear that you must present your evidence up front at the time of filing of a petition. Petitioners had ample time and opportunity to include these declarations and other evidence in support of the petitions, and that time has passed. Accordingly, to the extent that Petitioners may attempt to file the declarations and attachments as supplemental information or evidence, we will oppose their introduction, and will move to strike, exclude or expunge, as appropriate.

ATTACHMENT A

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In addition to failing to be compliant with the rules and due process rights, Petitioners "supplemental information", including new Suetens and Jahn Declarations and all exhibits thereto, also are facially defective for at least the following evidentiary reasons:

1. In addition to comprising improper supplemental information, Suetens' Supplemental Declaration fails to solve the evidentiary issues created by his contradictory declaration testimony, declaration exhibits, and deposition testimony. First, Ms. Suetens states that he has been educated by other Agfa personnel whom he relies on. Mr. Suetens, therefore, lacks knowledge as is required by Rule 602 of the Federal Rules of Evidence. Moreover, his statements and those that he attempts to introduce from others are hearsay under Rule 801 and not subject to any exception to hearsay. Therefore, such statements violated Rule 802. Furthermore, Mr. Suetens has not solved the authentication issues with regard to the Apogee reference - namely, that it was disseminated or otherwise made publicly available. Finally, paragraphs 3-15 are irrelevant to establishing a prior art printed publication date, and thus are inadmissible under Rule 401. Mr. Suetens' additional exhibits to his Supplemental Declaration suffer the same flaws.

2. In addition to comprising improper supplemental information, the Jahn Declaration contains statements - particularly paragraphs 8-28- that constitute hearsay or are wholly irrelevant to establishing a prior art printed publication date for the Apogee reference submitted to PTAB. The exhibits to the Jahn Declaration are likewise wholly irrelevant, demonstrate a lack of personal knowledge, and constitute hearsay. Therefore, the Jahn declaration and the exhibits thereto are not admissible under Fed. R. Evid. 401, 602, and 802.

Accordingly, although it is unnecessary and not required under the rules for Patent Owner to object to the supplemental declarations and statements made therein and exhibits thereto (including without limitation exhibits that are declarations that have exhibits), Patent Owner objects to the introduction of the aforementioned declarations and exhibits and will immediately move to strike, exclude, and/or expunge such declarations and exhibits and any other document filed with PTAB that so references those declarations or exhibits.

Sincerely,

/s/ W. Edward Ramage

W. Edward Ramage

cc: CTP Innovations, LLC
Samuel F. Miller
L. Clint Crosby

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