

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

PATENT OWNER'S SECOND MOTION TO EXCLUDE EVIDENCE

Filed on behalf of CTP Innovations, LLC

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TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	iii
I. INTRODUCTION	1
II. OBJECTIONS	2
III. ARGUMENT.....	2
A. The Board Should Exclude Apogee (Ex. 1008).....	2
B. The Board Should Exclude Suetens' Declarations (Exs. 1023 & 1025).....	5
C. The Board Should Exclude Jahn's Declaration (Ex. 1024).....	13
CERTIFICATE OF SERVICE	17

TABLE OF AUTHORITIES

	Page(s)
CASES	
<i>Amini Innov. Corp. v. Anthony Cal., Inc.</i> , 2006 U.S. Dist. LEXIS 100800 (C.D. Cal. Sept. 21, 2006) (Attach. A).....	5
<i>Handi Quilter et al. v. Bernina</i> , IPR2013-00364, slip op.....	11, 13
<i>In re Cronyn</i> , 890 F.2d 1158 (Fed. Cir. 1989)	2
<i>Mitsubishi Plastics v. Celgard</i> , IPR2014-00524, slip. op.....	10, 13
<i>Nordock Inc. v. Sys. Inc.</i> , 2013 U.S. Dist. LEXIS 34661 (E.D. Wis. Mar. 13, 2013) (Attach. B).....	5
<i>Palo Alto v. Juniper</i> , IPR2013-00369, slip. op.	10, 13
OTHER AUTHORITIES	
37 C.F.R. §§ 42.62 and 42.64	1
37 C.F.R. § 42.123(b)	11, 14
2 Melville B. Nimmer & David Nimmer, <i>Nimmer on Copyright</i> § 7.16[D]	4
FRE 401	12, 15
FRE 401, 402, and 403	13
FRE 402.....	10
FRE 402, 403, and 802	5
FRE 403.....	15
FRE 602.....	12
FRE 801.....	15

FRE 801 and 802.....	12
FRE 802.....	15
FRE 803(6) and 901	10
Rule 30(b)(6).....	11
www.agfahome.com.....	6

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. 1008 and Attachment A to Exhibit 1023); (2) the Declaration of Johan Suetens and attachments (Exhibit 1023); (3) the Declaration of Michael Jahn (Ex. 1024); and (4) the Supplemental Declaration of Johan Suetens (Ex. 1025).

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 23) (“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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