

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Oracle Corporation,
NetApp Inc. and
Huawei Technologies Co., Ltd.
Petitioners,

v.

Crossroads Systems, Inc.
Patent Owner.

IPR2014-01207

U.S. Patent No. 7,051,147

PETITIONERS' OBJECTIONS TO EVIDENCE

Petitioners object to the admissibility of the Exhibits 2029, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2300, 2301, 2302, 2303, 2304, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, and 2324 filed by Patent Owner with its Response. These objections are being filed and served within 5 business days of service of the evidence and are therefore timely under 37 C.F.R. §42.64(b)(1). Petitioners file and serve these objections to provide notice that Petitioners may move to exclude these Exhibits under 37 C.F.R. §42.64(c).

Exhibit 2029 (Markman Hearing Transcript)

Petitioners object to Exhibit 2029 as inadmissible hearsay under FRE 801. Patent Owner relies upon statements recorded within the transcript for their truth. The exhibit is irrelevant and any potential relevance is outweighed by the potential to cause confusion (FRE 402, 403).

Exhibit 2032 (Joint Claim Construction Brief)

Petitioners object to Exhibit 2032 as inadmissible hearsay under FRE 801. The exhibit is irrelevant and any potential relevance is outweighed by the potential to cause confusion (FRE 402, 403).

Exhibit 2033 (Dec. from Co-Pending Litigation)

Petitioners object to Exhibit 2033 as inadmissible hearsay under FRE 801. The exhibit is irrelevant and any potential relevance is outweighed by the potential to cause confusion (FRE 402, 403).

Exhibit 2034 (Special Master's Markman Recommendation)

Petitioners object to Exhibit 2034 as inadmissible hearsay under FRE 801. The exhibit is irrelevant and any potential relevance is outweighed by the potential to cause confusion (FRE 402, 403).

Exhibits 2035 and 2036 (Awards)

Petitioners object to Exhibits 2035 and 2036 as inadmissible hearsay under FRE 801. Additionally, the Patent Owner has failed to cite to either of these documents within its Response. Any potential relevance to the seemingly unimportant exhibits is outweighed by the potential for confusion (FRE 402, FRE 403).

Exhibit 2037 (ANSI SCSI Standard)

Petitioners object to Exhibit 2037 because the exhibit has not been authenticated (FRE 901).

Exhibit 2038 (1992 Article by Litigation Declarant)

Petitioners object to Exhibit 2038 because the exhibit is irrelevant and any potential relevance is outweighed by the potential to cause confusion (FRE 402, 403). Patent Owner presents the exhibit to establish long felt need, however, provides no demonstration of lack of sufficient solutions towards the deficiencies of remote storage devices identified in the 1992 article from the time of publication of the article to the priority date of the claimed invention. Instead, hearsay Exhibit 2029 is relied upon to present truth that nothing referred to as a “storage router” existed prior to the priority date of the claimed invention.

Exhibits 2043-2046 (Declaration of Bianchi & Associated Exhibits)

Petitioners object to Exhibit 2043, Exhibit 2044, Exhibit 2045, and Exhibit 2046 because the exhibits are irrelevant and any potential relevance is outweighed by the potential to cause confusion (FRE 402, 403). Declarant Bianchi lacks personal knowledge regarding the data and events described within the declaration (FRE 602) rendering the declaration of Exhibit 2043 hearsay (FRE 801). Patent Owner presents the exhibits to establish commercial success. However, Patent Owner provides no demonstration of mapping between the product and the claimed invention, only referencing the importance of “access controls.” There is no indication that this product utilized NLLBP. Furthermore, Exhibit 2046 lacks

authentication under FRE 901 for failing to identify dates of publication of the various product brochures.

Exhibit 2047 (ANSI SCSI Standard)

Petitioners object to Exhibit 2047 because the exhibit has not been authenticated (FRE 901).

Exhibit 2048 (NFS Standard)

Petitioners object to Exhibit 2048 because the exhibit has not been authenticated (FRE 901).

Exhibits 2049-2052 (Declaration of Crane & Associated Docs)

Petitioners object to Exhibit 2049, Exhibit 2050, Exhibit 2051, and Exhibit 2052 as inadmissible hearsay under FRE 801. Further, Exhibit 2050, Exhibit 2051, and Exhibit 2052 have not been authenticated (FRE 901). Declarant Crane lacks personal knowledge (FRE 602) of the statements contained within the declaration of Exhibit 2049, having been employed by Crossroads after the date of a portion of the licensing agreements.

The Schedule presented in Exhibit 2050, furthermore, presents nothing more than an improper incorporation by reference of argument, thereby skirting page limit requirements of the Patent Owner Response (CFR §42.6(a)(3)). Rather than presentation within a summary table, individual licensing agreement information

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