

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner

v.

DSS TECHNOLOGY MANAGEMENT, INC.
Patent Owner

CASE IPR2015-00369
Patent 6,128,290

**PETITIONER'S OBJECTIONS TO EVIDENCE SUBMITTED
WITH PATENT OWNER'S REPOSE**

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Petitioner Apple Inc. (“Apple”) objects under the Federal Rules of Evidence (“FRE”) and 37 C.F.R. § 42.62 to Exhibits 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, and 2017 (the “Challenged Exhibits”) cited in DSS Technology Management, Inc.’s (“DSS”) Patent Owner Response to Petition (Paper 17). DSS served the Challenged Exhibits on Apple on Monday, October 5, 2015. Monday, October 12, 2015 was a federal holiday; therefore, Apple’s Objections to Evidence are timely under 37 C.F.R. § 42.64(b)(1). Apple files and serves DSS with these objections to provide notice that Apple may move to exclude the Challenged Exhibits under 37 C.F.R. § 42.64(c).

I. IDENTIFICATION OF CHALLENGED EXHIBITS AND GROUNDS FOR OBJECTIONS

1. Exhibit 2003 – Dormer Article

Exhibit 2003 is purportedly a printout of an article by Myk Dormer. Such documents are not self-authenticating under FRE 902. Apple thus objects to Exhibit 2003 under FRE 901. Apple also objects to Exhibit 2003 as hearsay under FRE 801, without any applicable exception.

On its face, Exhibit 2003 appears to be dated well-after the earliest filing date of the ’290 patent. Exhibit 2003 is thus irrelevant to claim construction or validity/patentability and Apple objects to this exhibit under FRE 401.

2. Exhibits 2004, 2005, 2006, 2007, 2008, and 2012

Exhibits 2004, 2005, 2006, 2007, 2008, and 2012 are purportedly U.S. patents which DSS alleges define words related to the '290 patent. But on their face, these documents appear to all be dated well-after the earliest filing date of the '290 patent. The documents are thus irrelevant to claim construction or validity/patentability and Apple objects to these exhibits under FRE 401.

Additionally, DSS purports to rely on these documents for the truth of the matter asserted therein. Therefore, Apple objects to Exhibits 2004, 2005, 2006, 2007, 2008, and 2012 as hearsay under FRE 801, without any applicable exception.

3. Exhibit 2009 – Chambers Dictionary of Science and Technology

Exhibit 2009 is purportedly a copy of a portion of a technical dictionary. On its face, Exhibit 2009 appears to be dated well-after the earliest filing date of the '290 patent. Exhibit 2009 is thus irrelevant to claim construction or validity/patentability and Apple objects to this exhibit under FRE 401. Apple also objects to Exhibit 2009 as hearsay under FRE 801, without any applicable exception.

4. Exhibit 2010 – Encyclopedia of Networking & Telecommunications

Exhibit 2010 is purportedly a copy of a portion of a book. On its face, Exhibit 2010 appears to be dated well-after the earliest filing date of the '290

patent. Exhibit 2010 is thus irrelevant to claim construction or validity/patentability and Apple objects to this exhibit under FRE 401. Apple also objects to Exhibit 2010 as hearsay under FRE 801, without any applicable exception.

5. Exhibit 2011 – U.S. Patent No. 3,598,914

Exhibit 2011 is a patent which DSS alleges defines words related to the '290 patent. DSS purports to rely on this document for the truth of the matter asserted therein. Therefore, Apple objects to Exhibit 2011 as hearsay under FRE 801, without any applicable exception.

6. Exhibit 2013 – Yurcik Article

Exhibit 2013 is purportedly a webpage printout of an article by William J. Yurcik. Such documents are not self-authenticating under FRE 902. Apple thus objects to Exhibit 2013 under FRE 901. Apple also objects to Exhibit 2013 as hearsay under FRE 801, without any applicable exception.

On its face, Exhibit 2013 appears to be dated well-after the earliest filing date of the '290 patent. Exhibit 2013 is thus irrelevant to claim construction or validity/patentability and Apple objects to this exhibit under FRE 401.

7. Exhibit 2014 – User's Manual

Exhibit 2014 is purportedly a user's manual. Such documents are not self-authenticating under FRE 902. Apple thus objects to Exhibit 2014 under FRE 901.

Apple also objects to Exhibit 2014 as hearsay under FRE 801, without any applicable exception. Moreover, to the extent that DSS relies on the date on the face of Exhibit 2014 as a date of publication, Apple objects under FRE 801. And because DSS has not established a publication date for Exhibit 2014, Apple objects to Exhibit 2014 under FRE 401 as irrelevant to claim construction or validity/patentability.

8. Exhibit 2017 – Auppu Article

Exhibit 2017 is purportedly a printout of an article by Wmat Auppu. Such documents are not self-authenticating under FRE 902. Apple thus objects to Exhibit 2017 under FRE 901. Apple also objects to Exhibit 2017 as hearsay under FRE 801, without any applicable exception.

Exhibit 2017 is also undated. Apple therefore objects to Exhibit 2017 under FRE 401 as irrelevant to claim construction or validity/patentability.

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