

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARRIS GROUP, INC., and COX COMMUNICATIONS, INC.,
Petitioner,

v.

C-CATION TECHNOLOGIES, LLC,
Patent Owner.

Case IPR2015-00635¹
Patent 5,563,883

Before BARBARA A. BENOIT, LYNNE E. PETTIGREW, and
MIRIAM L. QUINN, *Administrative Patent Judges*.

PETTIGREW, *Administrative Patent Judge*.

ORDER TO EXPUNGE
Conduct of the Proceeding
37 C.F.R. §§ 42.5, 42.7(a)

¹ Cox Communications, Inc., who filed a Petition in IPR2015-01796, has been joined as a petitioner in this proceeding.

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A conference call was held on December 15, 2015, among counsel for Petitioner ARRIS Group, Inc., counsel for Petitioner Cox Communications, Inc., counsel for Patent Owner, C-Cation Technologies, LLC, and Judges Benoit and Pettigrew. Petitioner requested the call to discuss the handling of supplemental evidence in this proceeding. This order summarizes statements made during the conference call.

In response to Patent Owner's objections to Petitioner's evidence (Paper 22), Petitioner served, but did not file, supplemental evidence in accordance with 37 C.F.R. § 42.64(b)(2). More recently, in response to Petitioner's objections to Patent Owner's evidence (Paper 31), Patent Owner served *and filed* supplemental evidence (Exs. 2029, 2030). On the conference call, the parties identified orders issued in other trials in which panels addressed the expungement of supplemental evidence that had been filed. *See Symantec Corp. v. The Trustees of Columbia Univ.*, Case IPR2015-00372 (PTAB Sept. 29, 2015) (Paper 30); *Valeo N. Am., Inc. v. Magna Elecs., Inc.*, Case IPR2014-01203 (PTAB Mar. 30, 2015) (Paper 19).

Evidentiary objections must be served and filed in accordance with the time periods set forth in 37 C.F.R. § 42.64(b)(1). A party may respond to an evidentiary objection by serving supplemental evidence, as provided in 37 C.F.R. § 42.64(b)(2). On the call, we explained that Board rules do not provide for supplemental evidence to be filed at the time of service because the supplemental evidence may obviate an objection. *See, e.g., Handi-Quilter, Inc. v. Bernina Int'l AG*, Case IPR2013-00364, slip op. at 2 (PTAB June 12, 2014) (Paper 30). If the party who filed and served the objection is not satisfied that the objection has been overcome, the party may preserve the objection by filing a Motion to Exclude. *Id.* Then the party who served

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the supplemental evidence may file the supplemental evidence with an Opposition to the Motion to Exclude. *Id.*

On the conference call, we informed the parties that, although some panels in other *inter partes* reviews may have authorized supplemental evidence to be filed when served, we do not contemplate authorizing supplemental evidence to be filed when it is served in this proceeding. Accordingly, the exhibits filed as supplemental evidence will be expunged from the record of this proceeding.

ORDER

It is:

ORDERED Exhibits 2029 and 2030 and Paper 32 (Patent Owner's Updated Exhibit List) will be expunged from the record.

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