UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE INC.
Petitioner,

v.

AT HOME BONDHOLDERS' LIQUIDATING TRUST
Patent Owner.

Case IPR2015-00657[1]
Patent 6,286,045 B1

OBJECTIONS TO EVIDENCE

PURSUANT TO 37 C.F.R. § 42.64(b)(1)

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[1] Case IPR2015-00660 has been consolidated with this proceeding.

Petitioner Google Inc. hereby makes the following objections to the admissibility of documents submitted with Patent Owner's Preliminary Response.

1. Google objects to AHBLT-2001 as inadmissible hearsay (FRE 801, 802). Patent Owner uses AHBLT-2001 to show that "caching was essential to the growth of the web but a problem for on-line advertisers." (Paper 10, p. 6.) The document's authors are not under oath and are not subject to cross-examination in this proceeding. Because AHBLT-2001 is an out of court statement offered for its truth, and does not fall within any exception to the rule against hearsay, it is inadmissible hearsay. Also, AHBLT-2001 purports to quote analysts to show caching allegedly becoming an integral part of the Internet. (Paper 10, p. 6.) Thus, AHBLT-2001 contains hearsay within hearsay and no part of the combined statements conforms with an exception to the rule against hearsay.
2. Google objects to AHBLT-2002 as inadmissible hearsay (FRE 801, 802). Patent Owner uses AHBLT-2002 to show that the caching problem for advertisers allegedly was recognized. (Paper 10, p. 7.) The document's authors are not under oath and are not subject to cross-examination in this proceeding. Because AHBLT-2002 is an out of court statement offered for its truth, and does not fall within any exception to the rule against hearsay, it is inadmissible hearsay. Also, AHBLT-2002 purports to quote

Matchlogic Inc. to show that Matchlogic "plans to introduce software that *it [Matchlogic] says* will solve the problem, allowing accurate counts of how many people see a Web ad." (Paper 10, p. 7.) AHBLT-2002 further purports to quote Dick Bennett "agreeing that [Matchlogic] technology did what they were claiming it did" and quote Philip Guarascio saying the "technology is going to give us what we think is the most accurate headcount." (AHBLT-2002, p. 1.) Thus, AHBLT-2002 contains hearsay within hearsay and no part of the combined statements conforms with an exception to the rule against hearsay.

3. Google objects to AHBLT-2003 as inadmissible hearsay (FRE 801, 802). Patent Owner uses AHBLT-2003 to show that MatchLogic's technology allegedly raised the bar in terms of providing more complete activity reporting. (Paper 10, pp. 7-10.) The document's authors are not under oath and are not subject to cross-examination in this proceeding. Because AHBLT-2003 is an out of court statement offered for its truth, and does not fall within any exception to the rule against hearsay, it is inadmissible hearsay. Also, AHBLT-2003 purports to quote Michael Lavery to show MatchLogic allegedly raised the bar in terms of providing more complete activity reporting. (Paper 10, pp.7-8.) AHBLT-2003 further purports to quote Evan Neufeld to show TrueCount allegedly was widely adopted.

(Paper 10, p. 8.) Thus, AHBLT-2003 contains hearsay within hearsay and no part of the combined statements conforms with an exception to the rule against hearsay.

4. Google objects to AHBLT-2004 as inadmissible hearsay (FRE 801, 802), for lacking relevance given its 2013 copyright date (FRE 401, 402), and for lacking authentication (FRE 901). Patent Owner uses AHBLT-2004 to show that Audit Bureau of Circulations (ABC) is a not-for-profit, voluntary organization consisting of publishers, advertisers and advertising agencies. (Paper 10, p. 8.) The document's authors are not under oath and are not subject to cross-examination in this proceeding. Because AHBLT-2004 is an out of court statement offered for its truth, and does not fall within any exception to the rule against hearsay, it is inadmissible hearsay. And because AHBLT-2004 carries a copyright marking of 2013, it lacks relevance as to how the Bureau operated at the time of its review of MatchLogic's technology in 1997. AHBLT-2004 appears to be from the web site of an Indian organization "covering most of the major towns in India." (AHBLT-2004, p. 1.) AHBLT-2004 is an unauthenticated document and is not self-authenticating under FRE 902. Thus, AHBLT-2004 lacks authentication.

5. Google objects to AHBLT-2005 as inadmissible hearsay (FRE 801, 802) and for unfair prejudice (FRE 403). Patent Owner uses AHBLT-2005 to show that the NetGravity working draft allegedly described the invention of the '045 patent in detail. (Paper 10, p. 10.) The document's authors are not under oath and are not subject to cross-examination in this proceeding. Because AHBLT-2005 is an out of court statement offered for its truth, and does not fall within any exception to the rule against hearsay, it is inadmissible hearsay. In addition, the probative value is substantially outweighed by the danger of unfair prejudice, leading to confusion and waste of time.

6. Google objects to AHBLT-2006 as inadmissible hearsay (FRE 801, 802) and for unfair prejudice (FRE 403). Patent Owner uses AHBLT-2006 to show that the NetGravity proposal allegedly was adapted by the Internet Advertising Bureau (IAB) into a set of guidelines. (Paper 10, p. 10.) The document's authors are not under oath and are not subject to cross-examination in this proceeding. Because AHBLT-2006 is an out of court statement offered for its truth, and does not fall within any exception to the rule against hearsay, it is inadmissible hearsay. In addition, Patent Owner uses AHBLT-2006 to show that members of IAB allegedly included Google and DoubleClick. The probative value is substantially

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