

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION,
Petitioner

v.

BRADIUM TECHNOLOGIES LLC,
Patent Owner

Case IPR2015-01432
U.S. Patent No. 7,139,794 B2

**PATENT OWNER'S OBJECTIONS TO
PETITIONER'S EVIDENCE
(37 C.F.R. §42.64(b)(1))**

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Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Bradium Technologies LLC (“Bradium”) objects to the admissibility of the exhibits that accompanied Petitioner Microsoft Corporation’s (“Microsoft”) June 16, 2015 Petition for *Inter Partes* Review of U.S. Patent No. 7,139,794.

In this paper, a reference to “F.R.E.” means the Federal Rules of Evidence, a reference to “C.F.R.” means the Code of Federal Regulations, and “’794 patent” means U.S. Patent No. 7,139,794. All objections under F.R.E. 802 (hearsay) apply to the extent that Petitioner relies on exhibit(s) for the truth of the matter asserted therein.

Patent Owner objects as follows:

I. EXHIBIT 1002 (“D’ARNAUD DECLARATION”)

Patent Owner objects to Exhibit 1002 under 37 C.F.R. § 42.22(a)(2) because the Petition does not discuss the declaration. Petitioner also objects to the declaration under F.R.E. 402, 403, 602, and 701 because the declaration lacks foundation and fails to establish that Exhibit 1002A qualifies as a “printed publication” under § 102(b) and therefore is irrelevant and misleading.

Patent Owner objects to the purported testimony in Paragraph 5 of Exhibit 1002 because it is unclear and does not explain the relationship between the purported “Theme Issue FORTE 95” which lists articles beginning on pages 731 through 861, and the Contents of Computer Networks and ISDN Systems 29

(1997) vii-xi, which lists articles beginning at page 865 (after an editorial and credits) through page 1531, including Potmesil, which begins at page 1327, and therefore is objectionable as lacking foundation and as irrelevant, misleading and unreliable under F.R.E. 402, 403, 602 and 701.

Patent Owner objects to Exhibit 1002 (which is not explained in the Petition) under F.R.E. 801, 802, and 901 because it does not show that Potmesil is a printed publication, as the d'Arnaud Declaration relies on unauthenticated hearsay. A UCSC library sticker upon which Ms. d'Arnaud relies as purporting to show a receipt date of November 6, 1997 for Potmesil is unauthenticated hearsay as it appears that it is being relied upon for the truth of this date. Thus, Petitioner objects under F.R.E. 802. Petitioner has not shown that a hearsay exception applies.

The Petition and Ex. 1002 contain insufficient information to authenticate Potmesil and its purported library sticker. See F.R.E. 901(a); 37 C.F.R. § 42.62(a). The cover of Potmesil in Ex. 1002 is incomplete because one of the library stickers on the left-hand side is partially obscured, and because the back cover page is entirely omitted. As mentioned above, the Petition refers to Potmesil as “issues 8-13,” while the purported cover page lists the issue as issue 7. (Petition at ii; Ex. 1002 at pp. 4-5.) Therefore, Patent Owner objects to the declaration under F.R.E.

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