

Patent No. 8,648,717

Paper No. _____

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SIERRA WIRELESS AMERICA, INC., SIERRA WIRELESS, INC. AND RPX
CORP.

Petitioners

v.

M2M SOLUTIONS LLC
Patent Owner

Patent No. 8,648,717
Issue Date: February 11, 2015
Title: PROGRAMMABLE COMMUNICATOR

Inter Partes Review No. IPR2015-01823

PETITIONERS' EVIDENTIARY OBJECTIONS

I. Introduction

Pursuant to 37 C.F.R. § 42.64 (b), Petitioners Sierra Wireless America, Inc., Sierra Wireless, Inc. and RPX Corp. (“Petitioners”) object under the Federal Rules of Evidence (“FRE”) to Exhibits 2008, 2009, 2010, 2011, 2012, 2013, 2015, 2016, 2018, and 2019 cited in Patent Owner, M2M Solutions LLC (“M2M”), Response Pursuant to 37 C.F.R. § 42.120 (“Response”). The Patent Trial and Appeal Board instituted trial on March 8, 2016. M2M’s response was served on May 25, 2016; therefore, Petitioners’ Objections to Evidence are timely under 37 C.F.R. § 42.64(b)(1).

II. OBJECTIONS TO EXHIBITS 2008, 2009, 2010, 2016, 2018 and 2019

Exhibit 2008: Petitioners object to Exhibit 2008, Memorandum Opinion Denying Sierra’s Summary Judgment Motion, as being hearsay or containing hearsay under FRE 801 and is inadmissible under FRE 802-807; is irrelevant under FRE 401 and 402, and is unfairly prejudicial, confusing and misleading under FRE 403.

Exhibit 2009: Petitioners object to Exhibit 2009, ‘010 Markman Opinion dated November 12, 2013, as being hearsay or containing hearsay under FRE 801 and is inadmissible under FRE 802-807; is irrelevant under FRE 401 and 402, and is unfairly prejudicial, confusing and misleading under FRE 403.

Exhibit 2010: Petitioners object to Exhibit 2010, Joint Claim Construction Statement, as being hearsay or containing hearsay under FRE 801 and is inadmissible under FRE 802-807; is irrelevant under FRE 401 and 402, and is unfairly prejudicial, confusing and misleading under FRE 403.

Exhibit 2016: Petitioners object to Exhibit 2016, Excerpts of the deposition of Dr. Negus, as being hearsay or containing hearsay under FRE 801 and is inadmissible under FRE 802-807; is irrelevant under FRE 401 and 402, and is unfairly prejudicial, confusing and misleading under FRE 403.

Exhibit 2018: Petitioners object to Exhibit 2018, Excerpts of the Negus Invalidity Expert Report, as being hearsay or containing hearsay under FRE 801 and is inadmissible under FRE 802-807; is irrelevant under FRE 401 and 402, and is unfairly prejudicial, confusing and misleading under FRE 403.

Exhibit 2019: Petitioners object to Exhibit 2019, U.S. Patent No. 8,094,010, as being irrelevant under FRE 401 and 402.

III. OBJECTIONS TO EXHIBITS 2012, 2013, 2015

Exhibit 2012: Petitioners object to Exhibit 2012, ISO/IEC 7816-3 because it is irrelevant under FRE 401 and 402.

Exhibit 2013: Petitioners object to Exhibit 2013, 3G TS 22.038, SIM

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Application Toolkit (SAT); Service Description; V.2.0.0 because it is irrelevant under FRE 401 and 402.

Exhibit 2015: Petitioners object to Exhibit 2015, 3rd Generation Partnership Project; Point-to-Point (PP) Short Message Services (SMS) Support On Mobile Radio Interface; 3G TS 24.011 V3.2.0 (2000-03 Release 1999) because it is irrelevant under FRE 401 and 402.

IV. OBJECTIONS TO EXHIBIT 2011

Petitioners object to Exhibit 2011, Declaration of Joel R. Williams, is objected to as lacking foundation, assuming facts not in evidence, containing testimony on matters as to which the witness lacks personal knowledge, containing hearsay and as being conclusory. Exhibit 2011 is objected to under FRE 702 for failing to demonstrate that the declarant is qualified as an expert in the relevant subject-matter. Exhibit 2011 is further objected to under FRE 702(b), (c) and (d) as failing to be based upon sufficient facts or data, as the product of unreliable principles and methods and for failing to reliably apply sound principles and methods to the facts of the case. Exhibit 2011 is further objected to as irrelevant under FRE 401 and 402, and as being unfairly prejudicial, confusing and misleading under FRE 403.

Petitioners object to paragraph 13 in Exhibit 2011, Declaration of Joel R.

Williams, under FRE 602 and 703, to the extent Mr. Williams offers opinions regarding documents not of record in these proceedings.

Petitioners object to paragraph 15 in Exhibit 2011, under FRE 602 and 703, and as lacking foundation, assuming facts not in evidence, containing testimony on matters as to which the witness lacks personal knowledge, containing hearsay and as being conclusory to the extent Mr. Williams offers opinions regarding claim construction proceedings in the district court litigation.

Petitioners object to paragraphs 30-31 in Exhibit 2011, under FRE 602 and 703, to the extent Mr. Williams offers opinions regarding the disclosure of the '717 Patent without citation and beyond the scope of disclosure of the '717 Patent. Petitioners further object to paragraphs 30-31 Exhibit 2011 as irrelevant under FRE 401 and 402, and as being unfairly prejudicial, confusing and misleading under FRE 403.

Petitioners object to paragraph 74 in Exhibit 2011, under FRE 703, to the extent those paragraphs rely on Exhibit 2016 and Exhibit 2019, which Petitioners have objected to as inadmissible evidence.

Petitioners object to paragraphs 38-47 of Exhibit 2011 as lacking foundation, assuming facts not in evidence, containing testimony on matters as to which the witness lacks personal knowledge, containing hearsay and as being

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