

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LG ELECTRONICS, INC.,
Petitioner,

v.

CORE WIRELESS LICENSING S.A.R.L.,
Patent Owner.

Case IPR2015-01985

Patent 8,713,476 B2

**PATENT OWNER'S MOTION TO EXCLUDE
PETITIONER'S EVIDENCE**

Pursuant to the Scheduling Order dated March 17, 2016 (Paper 8), Patent Owner timely moves to exclude Petitioner's evidence as follows:

Ex. 1010

1. Identity of the exhibit and portion to be excluded: Ex. 1010 to be excluded in entirety. Ex. 1010 purports to be an excerpt from a 12/99 issue of Popular Science. *See* Petitioner's Reply at iii.
2. Objection: Fed. R. Evid. 402/403 (relevance), 801 (hearsay), 901 (authentication).
3. Patent Owner filed and served the foregoing objections to Ex. 1010 on October 7, 2016. Petitioner has not served supplemental evidence to remedy these objections.
4. Ex. 1010 is cited to by Dr. Rhyne as evidence that the "Ericsson R380 was known to those of ordinary skill in the art prior to the [*sic*] July 2000." Ex. 1015, ¶¶14, 17. However, Petitioner included no declaration or evidence establishing the authenticity of Ex. 1010. Dr. Rhyne's testimony confirms that he received Ex. 1010 from the attorneys representing LG, and therefore he cannot authenticate Ex. 1010. *See* Ex. 2011 at 11:11-12:7.
5. Dr. Rhyne also relies upon Ex. 1010 for the truth of the statements presented therein, including alleged features and availability of the

Ericsson R380. *See* Ex. 1015, ¶14. Ex. 1010 is hearsay that does not satisfy any exception.

6. Finally, Ex. 1010 lacks disclosure that is relevant to any issue in this proceeding. Specifically, Ex. 1010 fails to establish that the purported Ericsson device (R380) was publicly available or known to a POSITA prior to the critical date, and therefore is irrelevant to any issue in this proceeding.

Ex. 1011

1. Identity of the exhibit and portion to be excluded: Ex. 1011 to be excluded in entirety. Ex. 1011 purports to be a User's Guide for Ericsson R380s. *See* Petitioner's Reply at iii.
2. Objection: Fed. R. Evid. 402/403 (relevance), 801 (hearsay), 901 (authentication).
3. Patent Owner filed and served the foregoing objections to Ex. 1011 on October 7, 2016. Petitioner has not served supplemental evidence to remedy these objections.
4. Ex. 1011 is cited to by Dr. Rhyne as evidence that the "Ericsson R380 was known to those of ordinary skill in the art prior to the [*sic*] July 2000." Ex. 1015, ¶¶13, 17. However, Petitioner included no declaration

or evidence establishing the authenticity of Ex. 1011. Dr. Rhyne's testimony confirms that he received Ex. 1011 from the attorneys representing LG, and therefore he cannot authenticate Ex. 1011. *See* Ex. 2011 at 12:8-14:8.

5. Petitioner relies upon Ex. 1011 for the truth of the statements presented therein, including the alleged date of publication and features of the Ericsson R380. *See* Ex. 1015, ¶13. Ex. 1011 is hearsay that does not satisfy any exception.
6. Finally, Ex. 1011 lacks disclosure that is relevant to any issue in this proceeding. Specifically, Ex. 1011 fails to establish that the purported Ericsson device (R380) was publicly available or known to a POSITA prior to the critical date, and therefore is irrelevant to any issue in this proceeding.

Ex. 1012

1. Identity of the exhibit and portion to be excluded: Ex. 1012 to be excluded in entirety. Ex. 1012 purports to be a Press release dated 3/18/99 from Open Mobile Alliance. *See* Petitioner's Reply at iii.
2. Objection: Fed. R. Evid. 402/403 (relevance), 801 (hearsay), 901 (authentication).

3. Patent Owner filed and served the foregoing objections to Ex. 1012 on October 7, 2016. Petitioner has not served supplemental evidence to remedy these objections.
4. Ex. 1012 is cited to by Dr. Rhyne as evidence that the “Ericsson R380 was known to those of ordinary skill in the art prior to the [*sic*] July 2000.” Ex. 1015, ¶¶15, 17. However, Petitioner included no declaration or evidence establishing the authenticity of Ex. 1012. Dr. Rhyne’s testimony confirms that he received Ex. 1012 from the attorneys representing LG, and therefore he cannot authenticate Ex. 1012. *See* Ex. 2011 at 14:11-15:10.
5. Petitioner relies upon Ex. 1012 for the truth of the statements presented therein, including alleged features and availability of the Ericsson R380. *See* Ex. 1015, ¶15. Ex. 1012 is hearsay that does not satisfy any exception.
6. Finally, Ex. 1012 lacks disclosure that is relevant to any issue in this proceeding. Specifically, Ex. 1012 fails to establish that the purported Ericsson device (R380) was publicly available or known to a POSITA prior to the critical date, and therefore is irrelevant to any issue in this proceeding.

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