

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PALO ALTO NETWORKS, INC.,
Petitioner,

v.

FINJAN, INC.,
Patent Owner.

Case IPR2015-02001
Case IPR2016-00157
U.S. Patent No. 8,225,408 B2¹

**PATENT OWNER'S OBJECTIONS TO EVIDENCE IN PETITIONER'S
REPLY UNDER 37 C.F.R. § 42.64**

¹ Cases IPR2015-02001 and IPR2016-00157 are consolidated. Cases IPR2016-00955 and IPR2016-00956 have been consolidated and joined with this consolidated proceeding.

Patent Owner Finjan, Inc. ("Patent Owner") objects under the Federal Rules of Evidence and 37 C.F.R. § 42.64(b)(1) to the admissibility of the following documents submitted by Palo Alto Networks, Inc. and Blue Coat Systems, Inc. ("Petitioner") in its Reply to Patent Owner's Response ("Reply"). Paper No. 27.

Petitioner's Reply was filed on November 4, 2016. Patent Owner's objections are timely under 37 C.F.R. § 42.64(b)(1). Patent Owner serves Petitioner with these objections to provide notice that Patent Owner will move to exclude these exhibits as improper evidence.

I. PETITIONER'S EVIDENCE

A. Deposition Transcript of Nenad Medvidovic, IPR2015-02001 (Oct. 28, 2016), ("Medvidovic Deposition Transcript") (Exhibit 1062)

Patent Owner objects to the admissibility of the Medvidovic Deposition Transcript for at least the following reasons:

Patent Owner objects because the Medvidovic Deposition Transcript is not relevant. For example, the Medvidovic Deposition Transcript states that "analyzing the data in an individual packet might not give you any information." Ex. 1062 at 78. However, Petitioner misinterprets the Medvidovic Deposition Transcript to mean "it was only necessary to use known techniques to analyze individual packets or, at most, a group of packets..." Paper No. 27 at 5.

Accordingly, for at least the foregoing reasons, the cited portions of the Medvidovic Deposition Transcript are not relevant under **FRE 401** and

inadmissible under **FRE 402**. Moreover, Petitioner's use of the Medvidovic Deposition Transcript is confusing, of minimal probative value, outweighed by prejudice, and/or a waste of time and is therefore inadmissible under **FRE 403**.

Patent Owner objects to the portions of the Medvidovic Deposition Transcript that Petitioner does not cite to or rely on in its Reply. Accordingly, such evidence is not relevant under **FRE 401** and is inadmissible under **FRE 402**. Any attempt by Petitioner to rely on these portions would be highly prejudicial to Patent Owner under **FRE 403**.

B. Exhibit 4 to Deposition of Nenad Medvidovic, IPR2015-02001 (Oct. 28, 2016), ("Medvidovic Exhibit 4") (Exhibit 1063)

Patent Owner objects to the admissibility of the Medvidovic Exhibit 4 for at least the following reasons:

Petitioner has failed to authenticate the Medvidovic Exhibit 4 under **FRE 901** and **FRE 602**. Specifically, Petitioner has failed to establish that the Medvidovic Exhibit 4 is what Petitioner claims it to be.

Patent Owner objects to the portions of the Medvidovic Exhibit 4 that Petitioner does not cite to or rely on in its Reply. Accordingly, such evidence is not relevant under **FRE 401** and is inadmissible under **FRE 402**. Any attempt by Petitioner to rely on these portions would be highly prejudicial to Patent Owner under **FRE 403**.

Patent Owner also objects because the Medvidovic Exhibit 4 is hearsay under **FRE 801** and inadmissible under **FRE 802** and **FRE 803**.

The document introduces portions of writings, the whole of which were not submitted as evidence. The remainder of the writings must be submitted under **FRE 106**.

Patent Owner objects because the Medvidovic Exhibit 4 is not relevant. For example, the Medvidovic Exhibit 4 defines the term “data stream” as “[a] sequence of digitally encoded signals used to represent information in transmission.” Ex. 1063 at 10. Rather than using the exact definition, Petitioner chooses to mischaracterize the term to mean “a continuous flow of data during transmission.” Paper No. 27 at 15.

Accordingly, for at least the foregoing reasons, the Medvidovic Exhibit 4 is not relevant under **FRE 401** and inadmissible under **FRE 402**. Moreover, the Medvidovic Exhibit 4 is confusing, of minimal probative value, outweighed by prejudice, and/or a waste of time and is therefore inadmissible under **FRE 403**.

C. Exhibit 6 to Deposition of Nenad Medvidovic, IPR2015-02001 (Oct. 28, 2016), (“Medvidovic Exhibit 6”) (Exhibit 1064)

Patent Owner objects to the admissibility of the Medvidovic Exhibit 6 for at least the following reasons:

Petitioner has failed to authenticate the Medvidovic Exhibit 6 under **FRE 901** and **FRE 602**. Specifically, Petitioner has failed to establish that the Medvidovic Exhibit 6 is what Petitioner claims it to be.

Patent Owner objects to the portions of the Medvidovic Exhibit 6 that Petitioner does not cite to or rely on in its Reply. Accordingly, such evidence is not relevant under **FRE 401** and is inadmissible under **FRE 402**. Any attempt by Petitioner to rely on these portions would be highly prejudicial to Patent Owner under **FRE 403**.

Patent Owner also objects because the Medvidovic Exhibit 6 is hearsay under **FRE 801** and inadmissible under **FRE 802** and **FRE 803**.

The document introduces portions of writings, the whole of which were not submitted as evidence. The remainder of the writings must be submitted under **FRE 106**.

Accordingly, for at least the foregoing reasons, the Medvidovic Exhibit 6 is not relevant under **FRE 401** and inadmissible under **FRE 402**. Moreover, the Medvidovic Exhibit 6 is confusing, of minimal probative value, outweighed by prejudice, and/or a waste of time and is therefore inadmissible under **FRE 403**.

D. Deposition Transcript of Harry Bims, IPR2015-02001 (Oct. 25, 2016), (“Bims Deposition Transcript”) (Exhibit 1065)

Patent Owner objects to the admissibility of the Bims Deposition Transcript for at least the following reasons:

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.