

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION,
Petitioner

v.

BRADIUM TECHNOLOGIES LLC,
Patent Owner

CASE IPR2016-00448
Patent 7,908,343

**PATENT OWNER BRADIUM TECHNOLOGIES LLC'S
REPLY IN SUPPORT OF BRADIUM'S
MOTION TO EXCLUDE EVIDENCE**

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Patent Owner Bradium Technologies LLC (“Bradium”) respectfully submits this reply in support of its Motion to Exclude (Paper 47). Exhibits 1015,¹ 1017, 1020, 1022-23, 1027-29, 1030-31 and Microsoft’s leading redirect examination at Exhibit 2078 should be excluded. The portions of Exhibit 1016 and Paper 34 that rely on Exhibit 1017 should also be excluded.

I. THE FACTS AND THE LAW SUPPORT EXCLUSION OF EXHIBIT 1017 (LAVI DECLARATION)

Microsoft’s after-the-fact justifications for failing to produce Mr. Lavi in the United States fail. Microsoft never sought to revisit this issue with the Board, but instead remained silent until Bradium requested an update.

Microsoft’s attempt now to justify its failure to even bother consulting with Bradium or Mr. Levanon before publicly filing the Lavi declaration is also factually incorrect or unsupported. First, Microsoft’s allegations regarding one 3DVU entity, “3DVU, Inc.” are unavailing. Microsoft had no justification, given that Bradium had filed materials under seal in these IPRs, for making any assumptions about the 3DVU entities without checking.

But Microsoft’s representations in its reply are also incorrect. As one example, even putting aside the issue of confidential and propriety information of the 3DVU entities themselves, the 3DVU entities do include an ongoing concern with current confidentiality obligations to DENSO. Microsoft has been

¹ Microsoft did not oppose the exclusion of Exhibit 1015. *See generally* Paper 49.

specifically on notice of this confidentiality obligation since November 2016. *See* Paper 15 (Nov. 11, 2016) at page 3 (explaining that Exhibit 2029 is a confidential License Agreement that imposes a confidentiality requirement and that DENSO Corporation has requested that Patent Owner Bradium maintain Exhibit 2029 as confidential pursuant to a protective order.).

Mr. Lavi was employed in Israel by Flyover Technologies. *See* Ex. 2072 at ¶3; Ex. 1019 at 32:8–18. Flyover Technologies Israel Ltd. is now doing business as 3-D-V-U Israel (2000) Ltd. (“3DVU Israel”). *See* Ex. 2082. 3DVU Israel has an ongoing confidentiality obligation to DENSO. *See id.* [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Ex.

2082. Therefore, Bradium obtained permission for its disclosures and filed information under seal as needed. Paper 15 at page 3.

Mr. Lavi (and Microsoft) violated the confidentiality requirements of an active technology license with DENSO. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Mr. Lavi did not have permission from 3DVU Israel or DENSO to reveal this information. Bradium did specifically identify paragraphs containing confidential information in Mr. Lavi's declaration. Ex. 2084 at page 1.

Microsoft had ample time to resolve confidentiality issues before publicly filing Mr. Lavi's declaration. Mr. Lavi's contact information is readily and publicly available via LinkedIn, and he works at Facebook, a company in which Microsoft has made a significant investment. *See* Ex. 2083. Bradium told Microsoft that Bradium has no relationship with Mr. Lavi back in February 2016. Paper 49 at 2.

Microsoft's various claims regarding Mr. Lavi are unfounded and unsupported. Microsoft's claim that Mr. Lavi is "concerned" about legal consequences of his actions or "retaliation" or "threats" is not based on any evidence. Paper 49 at 3:3-5 (no citation to evidence), 5:6-7 (no citation to evidence). The evidence of record contradicts these claims, as Microsoft never raised any alleged concerns of Mr. Lavi in the parties meet-and-confer. Paper 47 at page 3; Ex. 2079. Bradium's limited waiver offer to Mr. Lavi was reasonable.

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