UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DELL INC.,

Petitioner

v.

CHRIMAR SYSTEMS, INC.,

Patent Owner.

Case No. IPR2016-00574
U.S. Patent No. 8,902,760

PETITIONER'S OBJECTIONS TO EXHIBITS SUBMITTED WITH PATENT OWNER'S RESPONSE

Per 37 C.F.R. § 42.64, Petitioner hereby objects to exhibits submitted by Patent Owner with its Response, exhibits designated by Patent Owner as Exhibit Nos. 2031-2087 (with some exhibit numbers in this range being unused).

The grounds for objection are as follows:

Patent Owner Exhibit No.	**Grounds for Objection**
Exhibit 2051	Hearsay. Fed. R. Evid. 801(c). To the extent Patent Owner relies on statements in this exhibit to prove the truth of matters described therein, the statements are hearsay: e.g., ¶ 29 ("Greg suggested that we at Chrimar begin preparing a draft of the provisional patent application"); ¶ 29 ("Greg suggested that we obtain a confidentiality agreement with Wisne before showing them our new inventions"); ¶ 35 ("Mr. Boenke sent me a letter outlining a five-phase plan for developing a prototype and a production pilot"); ¶ 37 ("American Broadband offered to refine the loop drive and return sense circuitry"); ¶ 42 ("based on our discussions, which [Mr. Boenke] acknowledged in a letter addressed to me on March 6, 1998"); ¶ 43 ("the March 6, 1998 letter confirms that we discussed with Mr. Boenke the returning of a digital identification from the EtherLockID to the hub end of the system"); ¶ 45 (entire paragraph); ¶ 49 ("Mr. Boenke provided an updated quotation for the development of two printed circuit electronic assemblies"); ¶ 55 ("American Broadband confirmed that we had picked up demonstration breadboards"). Patent Owner has not offered evidence sufficient to demonstrate that these statements fall within any exceptions to the rule against hearsay. Dell objects to Chrimar submitting this exhibit without complying with the requirements of 37 C.F.R. subpart 42. Specifically, §§ 42.22(a) and 42.23(a) require Chrimar to include in its Response "a detailed explanation of the significance of the evidence." Chrimar

	cites only to ¶¶ 7-9, 11, 13, 15-20, 23, 24, 29, 30, 32-48, and 50-52 in its Response, and fails to cite or discuss the remaining paragraphs or explain their significance. Chrimar has therefore failed to comply with 37 C.F.R. § 42.22(a) and 37 C.F.R. § 42.23(a) in submitting this exhibit, and all uncited paragraphs should be excluded. Dell objects to Chrimar submitting this exhibit without complying with the requirements of 37 C.F.R. subpart 42. Specifically, § 42.6(a)(3) states that "[a]rguments must not be incorporated by reference from one document into another document," and §§ 42.22(a) and 42.23(a) require Chrimar to include in its Response "a detailed explanation of the significance of the evidence." Chrimar cites generally to large paragraph ranges and to this entire exhibit in its Response, and in such general citations fails to discuss in detail the significance of any particular portions of the exhibit, thereby improperly incorporating by reference into its Response such large paragraph ranges and this entire exhibit. Chrimar has therefore failed to comply with 37 C.F.R. §§ 42.6(a)(3), 42.22(a), and 42.23(a) in submitting this exhibit, and all paragraphs improperly incorporated by reference should be excluded.
Exhibit 2052	Lack of Personal Knowledge. Fed. R. Evid. 602. This exhibit contains testimony for which the declarant lacks personal knowledge: e.g., ¶ 23 ("Marshall met with Chrimar's patent attorney, Greg Schivley, to disclose our invention"); ¶ 24 ("During that meeting, Marshall also informed Greg of Chrimar's intention to demonstrate these new concepts to a potential customer"); ¶ 24 ("Greg suggested that we obtain a confidentiality agreement with Wisne"); ¶ 31 ("Mr. Boenke sent Marshall at Chrimar a letter outlining a five-phase plan for developing a prototype and a production pilot"); ¶ 38 ("Marshall instructed Mr. Boenke that we wanted a circuit without inductors."); ¶ 39 ("based on our discussions, which [Mr. Boenke] acknowledged in a letter addressed to Marshall on March 6, 1998"); ¶ 47 ("On April 9, 1998, Marshall faxed a draft copy of our

	patent application to Chrimar's patent attorney at Harness Dickey, Gregory Schivley."). Opinion Testimony by Lay Witness. Fed. R. Evid. 701(c). This exhibit contains impermissible expert opinion testimony by a lay witness in that it that requires scientific, technical, or other specialized knowledge within the scope of Rule 702: e.g., ¶ 5 ("The EtherLock products were covered by U.S. Patent Nos. 5,406,260"); ¶ 6 (entire paragraph). Hearsay. Fed. R. Evid. 801(c). To the extent Patent Owner relies on statements in this exhibit to prove the truth of matters described therein, the statements are hearsay: e.g., ¶ 23 ("Greg suggested that we at Chrimar begin preparing a draft of the provisional patent application"); ¶ 24 ("During that meeting, Marshall also informed Greg of Chrimar's intention to demonstrate these new concepts to a potential customer"); ¶ 23 ("Greg suggested that we obtain a confidentiality agreement with Wisne"); ¶ 31 ("Mr. Boenke sent Marshall at Chrimar a letter outlining a five-phase plan for developing a prototype and a production pilot"); ¶ 34 ("American Broadband offered to refine the loop drive and return sense circuitry"); ¶ 39 ("based on our discussions, which [Mr. Boenke] acknowledged in a letter addressed to Marshall on March 6, 1998"); ¶ 40 ("For example, the March 6, 1998, letter confirms that Chrimar discussed with Mr. Boenke the returning of a digital identification from the EtherLockID (ELID) to the hub end of the system."); ¶ 42 (entire paragraph); ¶ 45 ("Mr. Boenke provided an updated quotation for the development of two printed circuit electronic assemblies"); ¶ 51 ("American Broadband confirmed that we had picked up demonstration breadboards"). Patent Owner has not offered evidence sufficient to demonstrate that these statements fall within any exceptions to the rule against hearsay. Dell objects to Chrimar submitting this exhibit without

	complying with the requirements of 37 C.F.R. subpart 42. Specifically, § 42.6(a)(3) states that "[a]rguments must not be incorporated by reference from one document into another document," and §§ 42.22(a) and 42.23(a) require Chrimar to include in its Response "a detailed explanation of the significance of the evidence." Chrimar cites generally to this entire exhibit in its Response, and in such general citations fails to discuss in detail the significance of any particular portions of the exhibit, thereby improperly incorporating this entire exhibit by reference into its Response. Chrimar has therefore failed to comply with 37 C.F.R. §§ 42.6(a)(3), 42.22(a), and 42.23(a) in submitting this exhibit, and all paragraphs improperly incorporated by reference should be excluded. Relevance. Fed. R. Evid. 401-403. This exhibit is not relevant to any issue in this IPR proceeding, and any probative value of the exhibit is substantially outweighed by unfair prejudice and a waste of time, particularly because there are no particular portions of this exhibit cited in Patent Owner's Response.
Exhibit 2053	Hearsay. Fed. R. Evid. 801(c). To the extent Patent Owner relies on statements in this exhibit to prove the truth of matters described therein, the statements are hearsay: e.g., ¶ 7 ("Mr. Cummings contacted me in early January of 1998 to notify me that he and John Austermann had ideas for some new inventions"); ¶ 8 ("Mr. Cummings told me about new concepts which were an improvement on Chrimar's original EtherLock System"); ¶¶ 9-10, 12 (entire paragraph); ¶ 14 ("Mr. Cummings let me know that they intended to show their new invention to a company called Wisne Design"). Patent Owner has not offered evidence sufficient to demonstrate that these statements fall within any exceptions to the rule against hearsay. Dell objects to Chrimar submitting this exhibit without complying with the requirements of 37 C.F.R. subpart 42. Specifically, § 42.6(a)(3) states that "[a]rguments

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