

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARRIS GROUP, INC.,
Petitioner,

v.

MOBILE TELECOMMUNICATIONS TECHNOLOGIES, LLC,
Patent Owner

Case IPR2016-00766 (Patent 5,659,891)

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

Per 37 C.F.R. § 42.64, Petitioner hereby objects to exhibits submitted by Patent Owner with its Preliminary Response, exhibits designated by Patent Owner as Exhibit Nos. 2002-2009.

The grounds for objection are as follows:

Patent Owner Exhibit No.	Grounds for Objection
Exhibit 2002	<p>Authentication. Fed. R. Evid. 901(a). Patent Owner has not produced evidence sufficient to support a finding that this exhibit is a true and correct copy of what Patent Owner purports it to be.</p> <p>Hearsay. Fed. R. Evid. 801(c). To the extent Patent Owner relies on this exhibit to prove the truth of matters described therein, the statements are hearsay. Patent Owner has not offered evidence sufficient to demonstrate that the exhibit falls within any exceptions to the rule against hearsay.</p> <p>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 the document is dated 2015, which is 20 years after the filing date of the patent at issue, and does not purport to represent the state of the art at the time of the filing date of the patent at issue.</p>
Exhibit 2003	<p>Authentication. Fed. R. Evid. 901(a). Patent Owner has not produced evidence sufficient to support a finding that this exhibit is a true and correct copy of what Patent Owner purports it to be.</p> <p>Hearsay. Fed. R. Evid. 801(c). To the extent Patent Owner relies on this exhibit to prove the truth of matters described therein, the statements are hearsay. Patent Owner has not offered evidence sufficient to demonstrate</p>

	<p>that the exhibit falls within any exceptions to the rule against hearsay.</p> <p>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 the document is dated 2012, which is 17 years after the filing date of the patent at issue, and does not purport to represent the state of the art at the time of the filing date of the patent at issue.</p>
Exhibit 2004	<p>Authentication. Fed. R. Evid. 901(a). Patent Owner has not produced evidence sufficient to support a finding that this exhibit is a true and correct copy of what Patent Owner purports it to be.</p> <p>Hearsay. Fed. R. Evid. 801(c). To the extent Patent Owner relies on this exhibit to prove the truth of matters described therein, the statements are hearsay. Patent Owner has not offered evidence sufficient to demonstrate that the exhibit falls within any exceptions to the rule against hearsay.</p> <p>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 the document is dated 2002, which is 7 years after the filing date of the patent at issue, and does not purport to represent the state of the art at the time of the filing date of the patent at issue.</p>
Exhibit 2005	<p>Hearsay. Fed. R. Evid. 801(c). To the extent Patent Owner relies on this exhibit to prove the truth of matters described therein, the statements are hearsay. Patent Owner has not offered evidence sufficient to demonstrate that the exhibit falls within any exceptions to the rule against hearsay.</p> <p>Petitioner also objects to the admission of Exhibit 2005, on the additional basis that (1) Petitioner was not and is</p>

	<p>not a party to that litigation and was not given an opportunity to depose Dr. Min, and (2) Petitioner is not permitted to depose Dr. Min as a part of routine discovery under 37 C.F.R. § 42.51(b)(1). <i>See</i> 37 C.F.R. § 42.53; 37 C.F.R. § 42.51(b)(1)(ii) (authorizing only cross examination of testimony prepared for this proceeding).</p>
Exhibit 2006	<p>Hearsay. Fed. R. Evid. 801(c). To the extent Patent Owner relies on this exhibit to prove the truth of matters described therein, the statements are hearsay. Patent Owner has not offered evidence sufficient to demonstrate that the exhibit falls within any exceptions to the rule against hearsay.</p> <p>Improper Expert Opinion. Fed. R. Evid. 702. To the extent Patent Owner relies on this exhibit as expert testimony, Patent Owner has not offered or established that the witness is qualified as an expert in the area of the offered testimony.</p> <p>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 an inventor's testimony is irrelevant to claim construction.</p> <p>Fed. R. Evid. 901(a). Patent Owner has not produced evidence sufficient to support a finding that this exhibit is a true and correct copy of what Patent Owner purports it to be.</p> <p>Petitioner also objects to the admission of Exhibit 2006, on the additional basis that (1) Petitioner was not and is not a party to that litigation and was not given an opportunity to depose Dr. Hays, and (2) Petitioner is not permitted to depose Dr. Hays as a part of routine discovery under 37 C.F.R. § 42.51(b)(1). <i>See</i> 37 C.F.R. § 42.53; 37 C.F.R. § 42.51(b)(1)(ii) (authorizing only</p>

	cross examination of testimony prepared for this proceeding).
Exhibit 2007	<p>Hearsay. Fed. R. Evid. 801(c). To the extent Patent Owner relies on this exhibit to prove the truth of matters described therein, the statements are hearsay. Patent Owner has not offered evidence sufficient to demonstrate that the exhibit falls within any exceptions to the rule against hearsay.</p> <p>Petitioner also objects to the admission of Exhibit 2007, on the additional basis that (1) Petitioner was not and is not a party to that litigation and was not given an opportunity to depose Dr. Petrovic, and (2) Petitioner is not permitted to depose Dr. Petrovic as a part of routine discovery under 37 C.F.R. § 42.51(b)(1). <i>See</i> 37 C.F.R. § 42.53; 37 C.F.R. § 42.51(b)(1)(ii) (authorizing only cross examination of testimony prepared for this proceeding).</p>
Exhibit 2008	<p>Hearsay. Fed. R. Evid. 801(c). To the extent Patent Owner relies on this exhibit to prove the truth of matters described therein, the statements are hearsay. Patent Owner has not offered evidence sufficient to demonstrate that the exhibit falls within any exceptions to the rule against hearsay.</p> <p>Petitioner also objects to the admission of Exhibit 2008, on the additional basis that (1) Petitioner was not and is not a party to that litigation and was not given an opportunity to depose Dr. Petrovic, and (2) Petitioner is not permitted to depose Dr. Petrovic as a part of routine discovery under 37 C.F.R. § 42.51(b)(1). <i>See</i> 37 C.F.R. § 42.53; 37 C.F.R. § 42.51(b)(1)(ii) (authorizing only cross examination of testimony prepared for this proceeding).</p>

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