

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FACEBOOK INC.  
Petitioner  
v.

WINDY CITY INNOVATIONS, LLC  
Patent Owner

U.S. Pat. No. 8,694,657  
Issue Date: April 8, 2014  
Title: REAL TIME COMMUNICATIONS SYSTEM

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**PATENT OWNER'S OBJECTIONS TO  
PETITIONER'S REPLY EVIDENCE**

Case No. IPR2016-01155<sup>1</sup>

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<sup>1</sup> Case IPR2017-00622 has been joined to this proceeding.

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Windy City Innovations LLC objects to the admissibility of the following evidence submitted by Petitioner Facebook Inc. on July 13, 2017 with its Petitioner's Reply. These objections are timely as filed within five business days of service of the evidence. Patent Owner objects to the evidence as follows:

**Ex. 1100, Reply Declaration of Christopher Schmandt**

Patent Owner objects to this exhibit to the extent the Declaration relies on Exhibits 1102, 1103, and 1104 because they are inadmissible as discussed herein. FRE 401, 402, 403, 801, 802, 901, 902, 1001, 1002, 1003, and 1004. Patent Owner further objects to this exhibit to the extent the Declaration relies on exhibits having outstanding objections which were served on December 22, 2016. For the purposes of objecting to this exhibit, the objections served on December 22, 2016 are incorporated by reference.

Patent Owner objects to this exhibit as containing inadmissible hearsay that does not fall under any exception. FRE 801, 802, 803, 804, 805, 807. To the extent Petitioner relies on the contents of this exhibit for the truth of the matter asserted, Patent Owner objects to such contents as inadmissible hearsay. To the extent Petitioner relies on the exhibits cited therein (*e.g.*, Exhibits 1102, 1103, and 1104) for the truth of the matter asserted, Patent Owner objects to such contents as inadmissible hearsay under FRE 801 and 802.

- Exhibit 1100, ¶ 21 at lines 4–17, regarding new arguments and new citations to the ’356 specification supporting what appears to be a new written description allegation.
- Exhibit 1100, ¶ 21 at lines 17–22, regarding new arguments alleging disclosure of “other programs” by a controller computer and new citations to Ex. 1001 at 5:37-40, 7:31-36, 8:1-3, 8:37-38, 10:36-43, and Fig. 2 in support thereof.
- Exhibit 1100, ¶ 22 at lines 1–17 including Fig. 28, regarding new arguments alleging disclosure of “other programs” and new citations to Ex. 1001 at 10:54-11:31, and Figs. 28–34.
- Exhibit 1100, ¶ 23 at lines 1–10, regarding new arguments alleging disclosure of “other programs” and new citations to Ex. 1001 at 7:32-36.
- Exhibit 1100, ¶¶ 26–30, newly and unilaterally limiting the relevant disclosure of the ’657 patent to Ex. 1001, 7:60-8:4, 8:14-16, 8:57-9:23 and inserting new arguments alleging disclosure of “determining whether the first user identity and the second user identity are able to form a group to send and to receive real-time communications” and new citations to and/or excerpts from Ex. 1012 at 15:27-37, 31:5-21,

10:36-45.

- Exhibit 1100, ¶ 33, regarding new arguments alleging the motivation “to use” and new citations to and/or excerpts from Ex. 1012, 7:4-6.
- Exhibit 1100, ¶ 46, regarding new arguments alleging motivation and the disclosure of Internet by a document (Choquier) which was not previously presented as prior art and new citations to and/or excerpts from Ex. 1022.
- Exhibit 1100, ¶¶ 49-50, regarding new arguments alleging motivation and new citations to and/or excerpts from Ex. 1019 at 4 and a figure within ¶ 50.

**Ex. 1102, Excerpts from Henry Korth, et al., *Database Systems Concepts***

**(1991)**

Patent Owner objects to this exhibit as inadmissible hearsay because it includes out of court statements offered for their truth and does not fall within any exception to the rule against hearsay. FRE 801, 802. To the extent that the authors(s) of the underlying document comment on the perception of others, the exhibit is objected to as inadmissible hearsay. FRE 801, 802. The document purports to be a copy of a publication and the purported authors of the publication are not under oath and are not subject to cross-examination in this proceeding.

Patent Owner objects to this exhibit as irrelevant, confusing the issues, misleading to the fact-finders, and unfairly prejudicial. FRE 401, 402, and 403.

Patent Owner objects to this exhibit as incomplete. Petitioner's excerpt omits portions which could contain contradictory disclosures.

Patent Owner objects to this exhibit as not properly authenticated and not self-authenticating. FRE 901, 902. Patent Owner objects to this exhibit as not properly authenticated because the document is not accompanied by any evidence that the document is authentic. FRE 901. Patent Owner objects to this exhibit as not self-authenticating . FRE 902. Patent Owner objects to this exhibit as not being an original document, an authentic duplicate, or a document excepted from the original document requirement. FRE 1001, 1002, 1003, 1004. To the extent Petitioner relies on the contents of this exhibit to prove the content of the original document, Patent Owner objects to the exhibit as not being the original or an admissible duplicate. The document is not an original document, nor does any statute obviate requirement of the original document. FRE 1002. Even if the Board deems a duplicate of the document to be admissible, which it is not, this document is not a certified copy and genuine issues exist concerning the origin and/or authenticity of this document. FRE 1003. Given the circumstances, this exhibit is not excused from the original document requirement. FRE 1004.

**Ex. 1103, Excerpts from IEEE Internet Computer, "Bob Metcalfe on**

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