

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FACEBOOK, INC.
Petitioner

v.

WINDY CITY INNOVATIONS, LLC
Patent Owner

Case IPR2016-01159
U.S. Patent No. 8,694,657

**PETITIONER FACEBOOK, INC.'S OBJECTIONS TO PATENT
OWNER'S EVIDENCE PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner Facebook, Inc. (“Petitioner”) objects to the admissibility of the following evidence submitted by Patent Owner Windy City Innovations LLC (“Patent Owner”) with its Response to Petition (Paper No. 22), filed March 31, 2017. These objections are made within five business days from the filing and service of the Patent Owner’s Response to Petition. Petitioner objects to the following documents on the following bases:

Ex. 2005, Declaration of Jaime G. Carbonell, Ph.D.

Petitioner objects to the exhibit because the opinions presented in the declaration are conclusory, there has not been an adequate showing that the testimony is the product of sufficient facts or data, or reliable principles or methods, and there is no indication that the testimony will help the Board understand the evidence or determine a fact in issue. FRE 401, 403, 702.

Petitioner objects to this exhibit because the declarant is unqualified as an expert to provide technical opinions of a person having ordinary skill in the art. Thus, the declarant’s opinions present in the exhibit are inadmissible. FRE 702.

Petitioner objects to the exhibit to the extent the Declaration relies on Exhibits 2008-2012 because they are inadmissible as discussed herein. FRE 401, 402, 403, 801, 802, 901, 902. Moreover, the relied-upon exhibits are inadmissible as not qualified to be the basis for an expert opinion. FRE 703. Patent Owner has

not established that these exhibits reasonably would be relied upon by experts in the field.

Petitioner 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 Patent Owner relies on the contents of this exhibit for the truth of the matter asserted, Petitioner objects to such contents as inadmissible hearsay. To the extent Patent Owner relies on the exhibits cited therein for the truth of the matter asserted, Petitioner objects to such contents as inadmissible hearsay under FRE 801 and 802.

Petitioner objects to this exhibit as irrelevant and inadmissible. FRE 401, 402. The contents of the exhibit are not relevant to claim construction, novelty, obviousness, or any issue related to the instituted ground. Nor do they correspond to any particular argument, and are thus not probative of any particular fact at issue.

Petitioner objects to this exhibit as confusing the issues, misleading the factfinders, and/or a waste of time because the contents of this exhibit are of minimal probative value and do not relate to claim construction, novelty, obviousness, or any issue related to the instituted ground. FRE 403. Petitioner objects to this exhibit as unfairly prejudicial. FRE 403.

Ex. 2008, IDS filed Jan. 14, 2017 for U.S. Patent Application No. 14/246,965

Petitioner 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 author(s) of the underlying document comment on the perception of others, opine on the functionalities of a product or process, and/or comment on the purported state of the art, the exhibit is objected to as inadmissible hearsay. FRE 801, 802. The document purports to be a copy and the purported authors are not under oath and are not subject to cross-examination in this proceeding.

Petitioner objects to this exhibit as irrelevant and inadmissible. FRE 401, 402. The contents of the exhibit are not relevant to claim construction, novelty, obviousness, or any issue related to the instituted ground. The contents of the exhibit do not correspond to any particular argument, and are thus not probative of any particular fact at issue. Further, this exhibit is irrelevant because Patent Owner and/or Dr. Carbonell have not established that this exhibit reasonably would be relied upon by experts in the field. FRE 401, 402, 702.

Petitioner objects to this exhibit as confusing the issues, misleading the factfinders, and/or a waste of time because the cited portions are of minimal probative value and do not relate to claim construction, novelty, obviousness, or any issue

related to the instituted ground. FRE 403. Petitioner objects to this exhibit as unfairly prejudicial. FRE 403.

Petitioner objects to this exhibit as not properly authenticated and not self-authenticating. FRE 901, 902. For at least these reasons, Petitioner objects to this exhibit.

Ex. 2009, Bob Metcalfe, *Predicting the Internet's catastrophic collapse and ghost sites galore in 1996*, InfoWorld, p.61 (Dec. 4, 1995)

Petitioner 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, opine on the functionalities of a product or process, and/or comment on the purported state of the art, the exhibit is objected to as inadmissible hearsay. FRE 801, 802. The document purports to be a copy and the purported authors are not under oath and are not subject to cross-examination in this proceeding.

Petitioner objects to this exhibit as irrelevant and inadmissible. FRE 401, 402. The contents of the exhibit are not relevant to claim construction, novelty, obviousness, or any issue related to the instituted ground. The contents of the exhibit do not correspond to any particular argument, and are thus not probative of any particular fact at issue. Further, this exhibit is irrelevant because Patent Owner

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