

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARRIS GROUP, INC.
Petitioner

v.

TQ DELTA, LLC
Patent Owner

Case: IPR2016-01160
Patent 8,611,404

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

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
United States Patent and Trademark Office
PO Box 1450
Alexandria, Virginia 22313-1450
Submitted Electronically via the Patent Review Processing System

In accordance with 37 C.F.R. § 42.64(b)(2), Petitioner ARRIS GROUP, Inc. (“ARRIS” or “Petitioner”) hereby responds to Patent Owner’s Objections to Evidence and has served a supplemental exhibit (EX. 1019) within 10 working days of the date of Patent Owner’s Objections to the Evidence.

On December 28, 2016, Patent Owner TQ-Delta, LLC. (“Patent Owner”) served the above referenced objections to certain exhibits that were filed with ARRIS’s Petition for *Inter Partes* Review of Patent 8,611,404, citing the Federal Rules of Evidence (“FRE”).

Petitioner maintains that the exhibits submitted for Ground 1 of the Petition are proper and entitled to inclusion in the present trial. Out of an abundance of caution, however, Petitioner serves the following additional supplemental evidence in response to Patent Owner’s objection of Ex. 1009 (ANSI T1.413-1995 – Network and Customer Installation Interfaces – Asymmetric Digital Subscriber Line (ADSL) Metallic Interface):

Ex. 1019: Non-Final Office Action mailed July 24, 2003, Application No. 09/563,527. The Office Action cites ANSI T1.413-1995 (Ex. 1009) as a prior art publication under 35 U.S.C. 103(a) and lists the publication date for the reference as “1995.” *See* Ex. 1019 at 3 and 8.

In particular, Patent Owner objects to Ex. 1009 as not being authenticating as required by FRE 901 and has not established the date of publication. The above-described evidence is an Office Action from the United States Patent Office that cites ANSI TI.413-1995 (Ex. 1009) as a prior art publication under 35 U.S.C. 103(a) and lists the publication date for the reference as “1995” which predates the earliest possible effective filing date of U.S. Patent No. 8,611,404 (January 26, 1998). *See* Ex. 1019 at 3 and 8. Accordingly, the above-described supplemental evidence further corroborates evidence already of record in this proceeding and independently shows that the ANSI TI.413-1995 standard (Ex. 1009) was publicly accessible as a publication prior to the priority date of the ‘404 Patent (January 26, 1998). There can be no meaningful dispute that the ANSI TI.413-1995 reference (Ex. 1009) is prior art under 35 U.S.C. 103(a). The above described exhibit is properly authenticated as required by FRE 901, self-authenticating under FRE 803(6) and 902(11), and/or falls within the residual exception under FRE 807, and are relevant to the dates of publication in this or another country and/or public availability in the United States.

The Patent Owner also objected to Exhibits 1010, 1011, 1012, 1014, 1015, 1016, and 1018. As described in the Petition, the aforementioned exhibits further corroborate Ex. 1009 which is evidence already of record in this proceeding and independently show that the ANSI TI.413-1995 standard (Ex. 1009) was publicly

accessible prior to the priority date of the '404 Patent (January 26, 1998). *See* Petition (Paper No. 1) at 14-18.

The supplemental evidence is being served within ten business days of the Service of Patent Owner's objections and, therefore, is timely under 37 C.F.R. § 42.64(b)(2).

Dated: January 12, 2017

Respectfully submitted,

/Charles W. Griggers/
Charles W. Griggers
Reg. No. 47,283

Thomas / Horstemeyer, LLP

CERTIFICATE OF SERVICE

The undersigned hereby certifies that copies of the foregoing Petitioner's Response to Patent Owner's Objections to Evidence, Amended Exhibit List, and Exhibit 1019 were served on January 12, 2017, via electronic mail, per agreement of the parties, to counsel for the following addresses:

Peter McAndrews (Reg. No. 38,547) at pmcandrews@mcandrews-ip.com

Thomas J. Wimbiscus (Reg. No. 36,059) at twimbiscus@mcandrews-ip.com

Scott P. McBride (Reg. No. 42,853) at smcbride@mcandrews-ip.com

Christopher M. Scharff (Reg. No. 53,556) at cscharff@mcandrews-ip.com

By: /Charles W. Griggers/
Charles W. Griggers
Reg. No. 47,283
Attorney for Petitioner