

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Juniper Networks, Inc., Ruckus Wireless, Inc., Brocade Communication
Systems, Inc. and Netgear, Inc.,

Petitioners

v.

Chrimar Systems, Inc.,

Patent Owner

Inter Partes Review No. 2016-01391¹
U.S. Patent No. 8,942,107

**PETITIONERS' FIRST SET OF OBJECTIONS TO PATENT OWNER'S
EVIDENCE PURSUANT TO 37 C.F.R. 42.64**

¹ Ruckus Wireless, Inc., Brocade Communication Systems, Inc., and Netgear, Inc. ("Ruckus et al.") filed a petition in (now terminated) IPR2017-00718, and Ruckus *et al.* has been joined to the instant proceeding.

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioners Juniper Networks, Inc., Ruckus Wireless, Inc., Brocade Communication Systems, Inc., and Netgear, Inc. (collectively “Petitioners”) hereby submit the following objections to Patent Owner Chrimar Systems, Inc.’s (“Patent Owner”) Exhibits 2038, 2040-2049, and any reference to/reliance on the foregoing, in Patent Owner’s Response in the above-captioned *inter partes* review (“Response”). As required by 37 C.F.R. § 42.62, Petitioners’ objections below apply the Federal Rules of Evidence (“F.R.E.”).

Petitioners’ objections are timely under 37 C.F.R. § 42.64(b)(1) because they are being filed and served within five (5) business days of the filing of Patent Owner’s Response on April 4, 2017. Petitioners’ objections provide notice to Patent Owner that Petitioners may move to exclude these exhibits under 37 C.F.R. § 42.64(c).

I. OBJECTIONS TO EXHIBIT 2038 AND ANY REFERENCE TO/RELIANCE THEREON

Evidence objected to: Exhibit 2038 (“Declaration of Vijay Madiseti”), and any reference to or reliance thereon.

Grounds for objection: Petitioners object to Exhibit 2038, and Patent Owner’s reference to or reliance thereon in this proceeding, under F.R.E. 401, 402 (“Relevance”); F.R.E. 403 (“Unfair Prejudice”); F.R.E. 602 (“Need for Personal Knowledge”); F.R.E. 702, 703 (“Expert Testimony”); 37 C.F.R. 42.65

(“Underlying Facts or Data for Expert Testimony”); F.R.E. 801, 802 (“Hearsay”); and F.R.E. 805 (“Hearsay within Hearsay”).

For example, Petitioners object to paragraphs 45, 56, 93, 157, and 191 of Exhibit 2038 as being inadmissible under F.R.E. 702, 703 (“Expert Testimony”), and 37 C.F.R. 42.65 (“Underlying Facts or Data for Expert Testimony”), because underlying facts or data on which the opinions in these paragraphs are purportedly based are either not disclosed or insufficient. Petitioners further object to this testimony as inadmissible under F.R.E. 602 because there is not sufficient evidence to support that the declarant has personal knowledge of those matters. To the extent Dr. Madisetti’s knowledge is based on what others told him, Petitioners further object to Exhibit 2038 as inadmissible hearsay under F.R.E. 801, 802, and 805, and object to this exhibit as it does not support Patent Owner’s characterization of the truth of the matter. Petitioners further object to this exhibit as not relevant under F.R.E. 401 and therefore inadmissible under F.R.E. 402. Even if relevant, Petitioners object to this exhibit under F.R.E. 403 because its probative value is substantially outweighed by a danger of unfair prejudice and confusing the issues.

II. OBJECTIONS TO EXHIBIT 2048 AND ANY REFERENCE TO/RELIANCE THEREON

Evidence objected to: Exhibit 2048 (“Declaration of Clyde Camp”), and any reference to or reliance thereon.

Grounds for objection: Petitioners object to Exhibit 2048, and Patent Owner's reference to or reliance thereon in this proceeding, under F.R.E. 401, 402 ("Relevance"); F.R.E. 403 ("Unfair Prejudice"); F.R.E. 602 ("Need for Personal Knowledge"); F.R.E. 801, 802 ("Hearsay"); and F.R.E. 805 ("Hearsay within Hearsay").

For example, Paragraphs 4-11 of Exhibit 2048 include statements that are inadmissible under F.R.E. 602 because there is not sufficient evidence to support that the declarant has personal knowledge of those matters. To the extent Mr. Camp's knowledge is based on what others told him, Petitioners further object to Exhibit 2048 as inadmissible hearsay under F.R.E. 801, 802, and 805, and object to this exhibit as it does not support Patent Owner's characterization of the truth of the matter. Petitioners further object to this exhibit as not relevant under F.R.E. 401 and therefore inadmissible under F.R.E. 402. Even if relevant, Petitioners object to this exhibit under F.R.E. 403 because its probative value is substantially outweighed by a danger of unfair prejudice and confusing the issues.

III. OBJECTIONS TO EXHIBITS 2040-2046, AND ANY REFERENCE TO/RELIANCE THEREON

Evidence objected to: Exhibits 2040-2046, and any reference to or reliance thereon.

Grounds for objection: F.R.E. 901 (“Authenticating or Identifying Evidence”); F.R.E. 801, 802 (“Hearsay”); F.R.E. 805 (“Hearsay within Hearsay”); F.R.E. 401, 402 (“Relevance”); and F.R.E. 403 (“Unfair Prejudice”).

Patent Owner fails to provide the authentication required by F.R.E. 901 for Exhibits 2040-2046. As set forth in § II, above, Patent Owner has not provided the testimony of any witness with personal knowledge of Exhibits 2040-2046. Patent Owner thus improperly cites to Exhibits 2040-2046 without providing any authenticating evidence to support a finding that the items are what Patent Owner claims they are, in violation of F.R.E. 901.

Moreover, Patent Owner has submitted Exhibits 2040-2046 in support of its, and Mr. Camp’s, statements regarding when, and by whom, Exhibits 2040, 2043, 2044, and 2046, were presented at 802.3af Committee meetings, and when Exhibits 2040-2046 were posted on the 802.3af Committee’s public website. *See, e.g.,* Exhibit 2048, ¶¶5-11; Response at pp. 26-30. Patent Owner has further submitted Exhibits 2040-2046 in support of its, and Dr. Madisetti’s, statements regarding supposed skepticism by certain individuals. *See, e.g.,* Exhibit 2038, ¶¶36, 56-67; Response at pp. 26-31. Exhibits 2040-2046 are out of court statements, offered for the truth of the matter asserted, and are therefore inadmissible hearsay pursuant to F.R.E. 801, 802, and 805. Petitioners further object to this exhibit as not relevant under F.R.E. 401 and therefore inadmissible

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