

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

Case No. IPR2016-01397

U.S. Patent No. 9,019,838

Petitioners' Opposition to Chrimar's Motion to Exclude

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37 C.F.R. § 42.23(b)5

37 C.F.R. § 42.641

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A motion to exclude preserves timely *evidentiary* objections. 37 C.F.R. § 42.64(c). In its Objections (Paper 36), Chrimar included certain evidentiary objections based on the Federal Rules of Evidence. Of those objections, Chrimar's Motion (Paper 45) addresses only hearsay. As explained below, Chrimar's hearsay objections are without merit and should be denied.

Chrimar's remaining non-evidentiary objections are not proper under 37 C.F.R. § 42.64. In particular, Chrimar's argument that Petitioners' Reply Exhibits are "untimely" evidence offered to "supplement" Petitioners' arguments after the Petition was filed is *not* an evidentiary objection. *See* Paper 45, 1-10. Chrimar's Motion to Exclude (except for the hearsay section) is also improper under Trial Practice Guide, 77 Fed. Reg. 48756, 48767 (Aug. 14, 2012) because it presents non-evidentiary arguments about the timeliness of Petitioners' submission of certain exhibits with its Reply (Paper 32). Chrimar argues that Exhibits 1020-1043 (herein, "Reply Exhibits") should be excluded because they relate to arguments that should have been made in the Petition.¹ This is a procedurally flawed attack on the sufficiency of the Petition, rather than a proper preservation of evidentiary objections. Also, Chrimar overlooks that the law allows Petitioners to rely on

¹ Chrimar's motion does not present argument for Exs. 1020, 1030, 1043, and 1046 (except to request exclusion of testimony based on the Reply Exhibits).

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