

Filed on behalf of TQ Delta, LLC
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DISH NETWORK, L.L.C.,
Petitioner,
v.

TQ DELTA, LLC,
Patent Owner

Case IPR2016-01469
Patent No. 9,094,268

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

Patent Owner Objections to Evidence

IPR2016-01469

Patent No. 9,094,268

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner TQ Delta, LLC (“Patent Owner”) hereby files and serves the following objections to evidence that Petitioner Dish Network, LLC (“Dish”) served on Patent Owner with its Petition on July 20, 2016. A chart listing Patent Owner’s objections and its bases for the objections is provided below.

Exhibit(s)	Objection
Exs. 1023-1049, 1052-1053	Relevance: None of these exhibits are relevant under FRE 402, given that none of them were specifically cited or discussed in the Petition or Hoarty declaration. Petitioner cannot block-designate into evidence exhibits without any showing in the Petition or declaration as to their relevance.
Ex. 1019 (internet article purporting to be from Electronic Products Magazine Digital Edition) Exs.1035-36, 1053 (internet articles purporting to be from EE Times)	Authenticity: Petitioner has not provided any evidence that these exhibits are authentic under FRE 901. The exhibits do not fall within any of the self-authenticating exceptions of FRE 902; they are not newspapers or periodicals. <i>See, e.g., Adobe Sys. v. Christenson</i> , 2011 U.S. Dist. LEXIS 16977, *26 (D. Nev. Feb. 7, 2011) (“Courts do not treat printouts from internet websites as self-authenticating or admit them without foundation or authentication.”); <i>In re Homestore.com., Inc. v. Securities Litigation</i> , 347 F.Supp.2d 769, 782-783 (C.D. Cal. 2004 (“Printouts from a web site do not bear the indicia of reliability demanded for other self-authenticating documents under Fed.R.Evid. 902. To be

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	<p>authenticated, some statement or affidavit from someone with knowledge is required; for example, Homestore's web master or someone else with personal knowledge would be sufficient.”)</p> <p>Hearsay: The exhibits are hearsay under FRE 801-802. They do not fall within any of the exceptions of FRE 803; they are not statements in a learned treatise or periodicals. <i>See, e.g., Combs v. Washington</i>, 2014 U.S. Dist. LEXIS 121320 (W.D. Wash. June 11, 2014) (“Internet articles are independently inadmissible hearsay under Rule 801(c).”); <i>Stewart v. Wachowski</i>, 574 F. Supp. 2d 1074, 1105 (C.D. Cal. 2005) (same).</p>
Exs. 1021-1030 (ADSL Forum technical reports)	<p>Authenticity: Petitioner has not provided any evidence that these exhibits are authentic under FRE 901. The exhibits do not fall within any of the self-authenticating exceptions of FRE 902.</p> <p>Hearsay: The exhibits are hearsay under FRE 801-802. They do not fall within any of the exceptions of FRE 803.</p>
Exs. 1031, 1039 (PowerPoint presentations) Ex. 1038 (document titled “Mixed Signal Circuits and Systems”)	<p>Authenticity: Petitioner has not provided any evidence that these exhibits are authentic under FRE 901. The exhibits do not fall within any of the self-authenticating exceptions of FRE 902.</p> <p>Hearsay: The exhibits are hearsay under FRE 801-802. They do not fall within any of the exceptions of FRE 803.</p>

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<p>Ex. 1033 (website printout from kitz.co.uk)</p> <p>Exs. 1041-42, 1046, 1052 (miscellaneous website printouts)</p>	<p>Authenticity: Petitioner has not provided any evidence that this exhibit is authentic under FRE 901. The exhibit does not fall within any of the self-authenticating exceptions of FRE 902. <i>See, e.g., Adobe Sys. v. Christenson</i>, 2011 U.S. Dist. LEXIS 16977, *26 (D. Nev. Feb. 7, 2011) (“Courts do not treat printouts from internet websites as self-authenticating or admit them without foundation or authentication.”); <i>In re Homestore.com., Inc. v. Securities Litigation</i>, 347 F.Supp.2d 769, 782-783 (C.D. Cal. 2004 (“Printouts from a web site do not bear the indicia of reliability demanded for other self-authenticating documents under Fed.R.Evid. 902. To be authenticated, some statement or affidavit from someone with knowledge is required; for example, Homestore's web master or someone else with personal knowledge would be sufficient.”))</p> <p>Hearsay: The exhibit is hearsay under FRE 801-802. It does not fall within any of the exceptions of FRE 803. <i>See United States v. Jackson</i>, 208 F.3d 633, 637 (7th Cir. 2000) (web postings from the Internet were inadmissible hearsay); <i>St. Clair v. Johnny's Oyster & Shrimp, Inc.</i>, 76 F. Supp. 2d 773, 775 (S.D. Texas 1999) (“Any evidence procured off the Internet is adequate for almost nothing, even under the most liberal interpretations of the hearsay exception rules.”).</p>
<p>Ex. 1043 (document purporting to be ETSI TS 102 250-2 V2.5.1 Technical Specification)</p>	<p>Authenticity: Petitioner has not provided any evidence that these exhibits are authentic under FRE 901. The exhibits do</p>

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<p>Ex. 1047 (document purporting to be a white paper)</p>	<p>not fall within any of the self-authenticating exceptions of FRE 902.</p> <p>Hearsay: The exhibits are hearsay under FRE 801-802. They do not fall within any of the exceptions of FRE 803. <i>See United States v. Jackson</i>, 208 F.3d 633, 637 (7th Cir. 2000) (web postings from the Internet were inadmissible hearsay); <i>St. Clair v. Johnny's Oyster & Shrimp, Inc.</i>, 76 F. Supp. 2d 773, 775 (S.D. Texas 1999) (“Any evidence procured off the Internet is adequate for almost nothing, even under the most liberal interpretations of the hearsay exception rules.”).</p>
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Dated: February 28, 2017

/Peter J. McAndrews/

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