UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD. and
SAMSUNG ELECTRONICS AMERICA, INC.,
Petitioner

v.

IMAGE PROCESSING TECHNOLOGIES LLC,
Patent Owner

Case IPR2017-01190
U.S. Patent No. 6,717,518 B1

PAPER NO. 13

PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner, Image Processing Technologies LLC ("Image Processing") objects to the admissibility of the following exhibits filed by Petitioners.

In this paper, a reference to "F.R.E." means the Federal Rules of Evidence and "'518 patent" means U.S. Patent No. 6,717,518. "C.F.R." means the Code of Federal Regulations.

Image Processing's objections are as follows:

Exhibit 1002 (Hart Declaration)

Patent Owner objects to ¶¶ 136-159 of Exhibit 1002 under F.R.E. 402 (relevance) and F.R.E. 403 (confusing, waste of time) because Ground 3 has not been instituted by the Board.

Exhibit 1005 (Eriksson)

Patent Owner objects that Petitioner has failed to establish that Exhibit 1005 is a printed publication within the meaning of 35 U.S.C. §§ 102 and 311(b), and that the reference is prior art to the '518 Patent. In particular, Petitioner fails to show in the Petition, or even otherwise, that the reference was "publicly accessible," prior to the critical date, i.e., that the reference has been "disseminated or otherwise made available to the extent that persons interested and ordinarily skilled in the subject matter or art exercising reasonable diligence, can locate it." *Blue Calypso, LLC v. Groupon, Inc.*, 815 F.3d 1331, 1348 (Fed. Cir. 2016)

(*quoting Kyocera Wireless Corp. v. Int'l Trade Comm'n*, 545 F.3d 1340, 1350 (Fed. Cir. 2008)).

The Garrity declaration, Exhibit 1010, lacks foundations for its assertions and therefore is irrelevant and prejudicial. *See* F.R.E. 602, 701, 402-03. For example, the declarant admits he or she has worked at the library only since 2014. The declarant's assertions as to prior library practices and their asserted foundation for familiarity with same are conclusory and insufficient.

The Umit Ozguner declaration, Exhibit 1011, lacks foundations for its assertions and therefore is irrelevant and prejudicial. Se F.R.E. 602, 701, 402-03. For example, the declarant does not explain the factual basis for his assertion that "all of the Technical Papers listed on Pages 44–46 in Exhibit A were distributed to registered conference attendees as part of the Proceedings" (Paragraph 3), or whether he asserts that the "1998" stamped article is the same version of the document that he says was made available in 1997.

Patent Owner also objects to this exhibit under F.R.E. 402 and 403, and objects that a complete copy was required under F.R.E. 106 and an original was required under F.R.E. 1002. The document is an incomplete copy of a larger document lacking, for example, a rear cover page or any other copies of technical papers that were purportedly included, and includes a "1998" date stamp on page 314 that contradicts Petitioner's claimed date of availability. The document,

therefore, has not been shown to be a document that was provided to conference participants in 1997.

Patent Owner also objects to Exhibit 1005 under F.R.E. 402 (relevance) and F.R.E. 403 (unfairly prejudicial, confusing, waste of time) at least because the document is not relevant to any issue in this IPR proceeding because the disclosure is not prior art and/or Petitioner has not met its burden to show the exhibit to be prior art.

Exhibit 1006 (Stringa)

Patent Owner objects that Petitioner has failed to establish that Exhibit 1006 is a printed publication within the meaning of 35 U.S.C. §§ 102 and 311(b), and that the reference is prior art to the '518 Patent. In particular, Petitioner fails to show in the Petition, or even otherwise, that the reference was "publicly accessible," prior to the critical date, i.e., that the reference has been "disseminated or otherwise made available to the extent that persons interested and ordinarily skilled in the subject matter or art exercising reasonable diligence, can locate it." *Blue Calypso, LLC*, 815 F.3d at 1348 (Fed. Cir. 2016).

The Garrity declaration, Exhibit 1010, lacks foundations for its assertions and therefore is irrelevant and prejudicial. *See* F.R.E. 602, 701, 402-03. For example, the declarant admits he or she has worked at the library only since 2014.

The declarant's assertions as to prior library practices and his or her asserted foundation for familiarity with same are conclusory and insufficient.

Patent Owner objects to Exhibit 1006 under F.R.E. 802 (hearsay). Patent Owner also objects to Exhibit 1006 under F.R.E. 402 (relevance) and F.R.E. 403 (unfairly prejudicial, confusing, waste of time) at least because the document is not relevant to any issue in this IPR proceeding because the disclosure is not prior art and/or Petitioner has not met its burden to show the exhibit to be prior art.

Exhibit 1010 (Garrity Declaration)

Patent Owner objects to Exhibit 1010 under F.R.E. 802 (hearsay). The Garrity declaration, Exhibit 1010, lacks foundations for its assertions and therefore is irrelevant and prejudicial. *See* F.R.E. 602, 701, 402-03. For example, the declarant admits he or she has worked at the library only since 2014. The declarant's assertions as to prior library practices and his or her foundation for familiarity with same are conclusory and insufficient.

Patent Owner objects to Exhibit 1010 under 37 C.F.R. §§ 42.6(a)(3) and 42.24(a)(1)(i) and as not relevant and prejudicial under F.R.E. 402 and 403 because it is not sufficiently referenced or explained in the Petition. *See* 37 C.F.R. §§ 42.22(a)(2) and 42.104(b)(4). Petitioner's only reference is to cite Exhibit 1010 in single sentence of the Petition (Paper 2) at Page 15. Petitioner's attempt to rely upon Exhibit 1011 without referencing this exhibit in the Petition is an improper

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