

Filed on behalf of:
Google LLC

Paper 10
Date: March 23, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC¹,

Petitioner,

v.

ALEX IS THE BEST, LLC,

Patent Owner.

IPR2017-02056

U.S. Patent 8,134,600

PETITIONER'S OBJECTIONS

37 C.F.R. § 42.64(b)(1)

¹ As indicated in the Petitioner's updated mandatory notices, Petitioner Google Inc. is now Google LLC.

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner Google LLC (hereinafter, “Google”) respectfully submits the following objections:

Google objects to Patent Owner’s Preliminary Response, and particularly to the attorney arguments and accompanying discussions contained therein (Paper 7, pp. 1-33), as they lack relevance and are, therefore, inadmissible. Such arguments and their accompanying discussions lack relevance because they do not make any fact of consequence more or less probable. FED. R. EVID. 401, 402. Google further objects to Patent Owner’s Preliminary Response, and particularly to the attorney arguments and accompanying discussions contained therein (Paper 7, pp. 1-33), because their probative value, if any, is substantially outweighed by the danger of unfair prejudice, confusing the issues, misleading the fact finder, undue delay, wasting time, and/or needlessly presenting cumulative evidence. FED. R. EVID. 403. Google objects to Patent Owner’s Preliminary Response, and particularly to the attorney arguments and accompanying discussions contained therein (Paper 7, pp. 1-33), as essentially attorney testimony by a witness lacking competency, personal knowledge, and/or as improper opinion testimony by a lay witness. FED. R. EVID. 601, 602, 701.

Google objects to Patent Owner’s Preliminary Response, and particularly to the statements therein regarding the USPTO’s consideration of prior art reference Kusaka (US 2004/0109063) (Paper 7, pp. 9-10, 19-20, 26), and to Exhibit 2001 in

its entirety (Ex. 2001, pp. 1-75), because they lack relevance and are, therefore, inadmissible. Such statements and Exhibit 2001 lack relevance because each item does not make any fact of consequence more or less probable. FED. R. EVID. 401, 402. Google further objects to Patent Owner's Preliminary Response, and particularly to the statements therein regarding the USPTO's consideration of prior art reference Kusaka (US 2004/0109063) (Paper 7, pp. 9-10, 19-20, 26), and to Exhibit 2001 in its entirety, (Ex. 2001, pp. 1-75), because the probative value of each item, if any, is substantially outweighed by the danger of unfair prejudice, confusing the issues, misleading the fact finder, undue delay, wasting time, and/or needlessly presenting cumulative evidence. FED. R. EVID. 403.

Google objects to Patent Owner's Preliminary Response, and particularly to the statements regarding the network connection of prior art reference Inoue (US 2004/0109066), prior art reference Nicholas (US 2004/0133668) in relation to personal computers or the like, any/all discussion of simultaneous presence of multiple networks, and the accompanying discussions contained therein (Paper 7, pp. 1-3 and 8-33), as lacking relevance because they do not make any fact of consequence more or less probable. FED. R. EVID. 401, 402. Google objects to Patent Owner's Preliminary Response, and particularly to the statements regarding the network connection of prior art reference Inoue (US 2004/0109066), prior art reference Nicholas in relation to personal computers or the like, any/all discussion

of simultaneous presence of multiple networks, and the accompanying discussions contained therein (Paper 7, pp. 1-3 and 8-33), because their probative value, if any, is substantially outweighed by the danger of unfair prejudice, confusing the issues, misleading the fact finder, undue delay, and/or wasting time. FED. R. EVID. 403.

Google objects to Patent Owner's Preliminary Response, and particularly to the statements regarding the status of patent rights, for example, those concerning constitutionality of *inter partes* review, and accompanying discussions contained therein (Paper 7, pp. 1, 3-4), as lacking relevance because they do not make any fact of consequence more or less probable. FED. R. EVID. 401, 402. *Inter partes* review is available for all qualified patents and does not consider issues of validity or cancellation, but rather of unpatentability. 35 U.S.C. § 311(b). Google objects to Patent Owner's Preliminary Response, and particularly to the statements regarding the status of patent rights and accompanying discussions contained therein (Paper 7, pp. 1, 3-4), because their probative value, if any, is substantially outweighed by a danger of one or more of unfair prejudice, confusing the issues, misleading the fact finder, undue delay, and/or wasting time. FED. R. EVID. 403.

Google objects to Patent Owner's Preliminary Response, and particularly to the statements regarding effective filing dates and accompanying discussions contained therein (Paper 7, pp. 4-5), as lacking relevance because they do not make any fact of consequence more or less probable. FED. R. EVID. 401, 402. Google

objects to Patent Owner's Preliminary Response, and particularly to the statements regarding the status of effective filing dates and accompanying discussions contained therein (Paper 7, pp. 4-5), because their probative value, if any, is substantially outweighed by the danger of unfair prejudice, confusing the issues, misleading the fact finder, undue delay, and/or wasting time. FED. R. EVID. 403.

Respectfully submitted,

/ Joshua P. Larsen /

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