

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.

IPR2017-02059

U.S. Patent 8,581,991

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 as not properly within the public record. 37 C.F.R. § 42.14.

Google objects to Patent Owner’s Preliminary Response, and particularly to the attorney arguments and accompanying discussions contained therein (Paper 7, pp. 1-17), 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. 1-17), 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. 1-17), 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 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, 2, and 6-17), 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, 2, and 6-17), 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 the accompanying discussions contained therein (Paper 7, pp. 1, 2-3), 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 the accompanying discussions contained therein (Paper 7, pp. 1, 2-3), 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 effective filing dates and the accompanying discussions contained therein (Paper 7, pp. 3-4), 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 the accompanying discussions contained therein (Paper 7, pp. 3-4), 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 /

Joshua P. Larsen

Reg. 62,761

BARNES & THORNBURG LLP

11 South Meridian Street

Indianapolis, Indiana 46204

(317) 231-1313

joshua.larsen@btlaw.com

Counsel for Petitioner Google LLC

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.