

Paper No. ____

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY CORPORATION
Petitioner,

v.

FUJIFILM CORPORATION
Patent Owner.

Case No. IPR2018-00877
Patent No. 6,462,905 B1

**PETITIONER'S OPPOSITION TO PATENT OWNER'S
MOTION TO EXCLUDE**

As the Board is aware, Patent Owner Fujifilm Corporation (“Fujifilm”) and Petitioner Sony Corporation (“Sony”) are currently involved in two IPR trials before the Board concerning U.S. Patent No. 6,462,905: IPR No. 2018-00876 and IPR No. 2018-00877. Because the same claims and the same patent are involved in each of the -00876 and -00877 trials and to avoid potential confusion from overlapping or mismatched exhibit numbering between the two trials, Sony has introduced into each proceeding the same exhibits. In other words, Exhibits 1001 to 1037 are the same in each proceeding.

The lone exhibit that Fujifilm seeks to exclude in this trial is Exhibit 1034 (“the ECMA 319 Standard”). As explained in Sony’s Opposition to Fujifilm’s Motion to Exclude in the co-pending -00876 trial, Exhibit 1034 is highly relevant to disputed issues in that trial. Those issues, however, are unique to the -00876 trial, and Sony does not rely on Exhibit 1034 in this trial. Fujifilm also did not cite or otherwise discuss Exhibit 1034 in its papers for this trial. As neither party relies on Exhibit 1034 for an issue in this trial, the Board has no need to rely on the exhibit when issuing a final written decision in this trial and Fujifilm’s motion to exclude should thus be denied as moot. *E.g., Merck Sharp & Dohme Corp. v. Wyeth LLC*, IPR2017-00390, 2018 WL 2943368, at *24 (PTAB June 8, 2018) (“Accordingly, because we have not reached the merits of Patent Owner’s evidence of secondary considerations of nonobviousness, we dismiss Petitioner’s

Motion to Exclude regarding those exhibits as moot.”); *Apple, Inc. v. VirnetX Inc.*, No. IPR2015-00868, 2016 WL 6595312, at *24 (PTAB Sept. 28, 2016) (denying motion to exclude evidence: “because we do not rely on any evidence subject to the motion, the listed exhibits are irrelevant and we dismiss this request as moot”), *aff’d*, 715 Fed. Appx. 1024 (Fed. Cir. 2018).

Dated: May 28, 2019

Respectfully submitted,
Sony Corporation

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CERTIFICATE OF SERVICE UNDER 37 C.F.R. § 42.6 (e)(4)

I certify that on May 28, 2019 I will cause a copy of the foregoing document, including any exhibits or appendices referred to therein, to be served via electronic mail, as previously consented to by Patent Owner, upon the following:

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