

IPR2019-00211  
Patent 7,953,857

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GUEST TEK INTERACTIVE ENTERTAINMENT LTD.,  
Petitioner,

v.

NOMADIX, INC.,  
Patent Owner.

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Case IPR2019-00211  
Patent 7,953,857

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PATENT OWNER NOMADIX'S OBJECTIONS TO  
EVIDENCE SUBMITTED WITH THE PETITION

Patent Owner Nomadix objects to the following evidence that Petitioner Guest Tek Interactive Entertainment submitted with its petition (Paper 1).

**A. First Set of Objections**

This first set of objections applies to the following exhibits:

Exhibit 1007 (“IEEE, INDEX Project Report #98-010P (May 1998)”), Exhibit 1009 (“IEEE, INDEX Project Report #99-010W (April 16, 1999)”), Exhibit 1010 (“U.S. Patent No. 6,496,504”), Exhibit 1011 (“Blake et al., Request for Comments 2475: An Architecture for Differentiated Services, IETF (Dec. 1998)”), Exhibit 1013 (“Printout from IEEE website regarding INDEX Project Report #98-010P”), Exhibit 1014 (“IETF, Request for Comment 2597: Assured Forwarding PHB Group (June 1999)”), Exhibit 1015 (“Andrew M Odlyzko, The economics of the Internet: Utility, utilization, pricing, and Quality of Service, AT&T Labs, July 7, 1998”), Exhibit 1016 (“The ATM Forum, Traffic Management Specification Version 4.0, af-tm-0056.000 (April 1996)”), Exhibit 1017 (“Jeffrey MacKie-Mason, Pricing the Internet, February 10, 1994”), Exhibit 1018 (“Mitrabarun Sarkar, An Assessment of Pricing Mechanisms for the Internet—A Regulatory Imperative, Journal of Electronic Publishing, Volume 1, Issue 1&2, January-February 1995”), Exhibit 1019 (“Andrew M Odlyzko, The economics of the Internet: Utility, utilization, pricing, and Quality of Service, AT&T Labs, July 7, 1998”), Exhibit 1020 (“Pages from Electronics Dictionary, McGraw-Hill, 6th ed. (1997)”), Exhibit 1021 (“Eugen

IPR2019-00211  
Patent 7,953,857

Wallmeier and Tom Worster, “The Spacing Policier, an algorithm for efficient peak bit rate control in ATM networks,” Proc. International Switching Symposium 14, October 1992”).

For each of these exhibits, Nomadix objects to the exhibit’s admissibility on the following grounds:

- FRE 402: lack of foundation: The exhibit is not relevant to the instituted grounds. It is irrelevant in light of the scope of the grounds (except for Exhibit 1007; this exception applies only to this sentence). It is also irrelevant because Petitioner failed to carry its burden to demonstrate that the exhibit qualifies as prior art.
- FRE 403: Any probative value of the exhibit is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence, at least because the document has not been established as prior art.
- FRE 802: To the extent the exhibit is offered for the truth of the matters asserted therein, it is inadmissible hearsay.
- FRE 901: Petitioner has failed to sufficiently authenticate the exhibit.

**B. Second Set of Objections**

The declaration testimony of Dr. Dordal (Exhibit 1002, (CORRECTED)) and Mr. Grenier (Exhibit 1012) include assertions not based on personal knowledge (FRE 602); opinions failing to satisfy the requirements for admissible lay opinions at least because they are not rationally based on the witness's perception, not helpful to clearly understanding the witness's testimony or to determining a fact in issue, or are based on scientific, technical, or other specialized knowledge within the scope of FRE 702 (FRE 701); opinions failing to satisfy the requirements for admissible expert opinions at least because they are not based on sufficient facts or data, are not the product of reliable principles or methods reliably applied to any pertinent facts, or are unhelpful to understanding the evidence or determining a fact in issue (FRE 702); statements that are not relevant to the instituted grounds (FRE 402)—in some cases irrelevant not only in light of the scope of the instituted grounds, but also because the statements pertain to references not established as prior art or not available as prior art in an *inter partes* review; testimony whose probative value, if any, is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence, at least because the testimony concerns references unavailable or not established as prior art or the testimony is conclusory and unsupported (FRE 403); and hearsay (FRE 802). Nomadix objects in particular to the testimony of Mr. Grenier (Exhibit

IPR2019-00211  
Patent 7,953,857

1012) as follows: ¶¶ 6-7, 9-11: FRE 402, 403, 602, 701, 702; Exhibit A and all statements by Mr. Grenier about Exhibit A: 402, 403, 802. Nomadix objects in particular to the testimony of Dr. Dordal (Exhibit 1002) as follows: ¶¶ 16-17, 22-23, 25-26, 28-36, 37-43, 44-49, 50-54, 55-58, 60-64, 65-70, 71-83, 84-94, 95-103: FRE 402, 403, 602, 701, 702.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: June 13, 2019

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