

IPR2019-00253
Patent 8,626,922

Filed: June 11, 2019

Doug G. Muehlhauser (Reg. No. 42,018)
William H. Shreve (Reg. No. 35,678)
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, Fourteenth Floor
Irvine, CA 92614
Tel.: (949) 760-0404
Fax: (949) 760-9502
E-mail: BoxNomadix@knobbe.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GUEST TEK INTERACTIVE ENTERTAINMENT LTD.,
Petitioner,

v.

NOMADIX, INC.,
Patent Owner.

Case IPR2019-00253
Patent 8,626,922

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

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

IPR2019-00253
Patent 8,626,922

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: ¶¶ 16-18, 23-25, 27-28, 30-38, 39-46, 47-52, 53-57, 58-61, 63-67, 68-74, 75-87, 88-98, 99-107: FRE 402, 403, 602, 701, 702.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: June 11, 2019

/Douglas G. Muehlhauser/

Douglas G. Muehlhauser (Reg. No. 42,018)

William H. Shreve (Reg. No. 35,678)

Attorneys for Patent Owner
NOMADIX, INC.

Customer No. 20995
(949) 760-0404

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.