

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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LG ELECTRONICS INC.,  
Petitioner

v.

BELL NORTHERN RESEARCH, LLC,  
Patent Owner.

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Case IPR2020-00108  
U.S. Patent No. 8,416,862

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**PETITIONER'S OBJECTIONS TO PATENT OWNER'S EVIDENCE**

Pursuant 37 C.F.R. § 42.64(b), Petitioner objects to evidence submitted by Patent Owner during the preliminary, pre-institution stage of this IPR, which was instituted on May 20, 2020. Specifically, Petitioner objects to the following exhibits submitted by Patent Owner for the bases noted below:

- Ex. 2004 (“Declaration of Dr. Edwin A. Hernandez-Mondragon”) – FRE 801-802
- Ex. 2007 (“LinkedIn profile for Carlos Aldana”) – FRE 801-802 and 901, and 37 C.F.R. § 42.53(a);
- Ex. 2008 (“LinkedIn profile for Joonsuk Kim”) – FRE 801-802 and 901;
- Ex. 2009 (“EE Times, *802.11 In deal imminent, says Broadcom exec*”) – FRE 801-802 and 901;
- Ex. 2010 (“Broadcom press release, *Avago Technologies to Acquire Broadcom for \$37 Billion*”) – FRE 801-802 and 901;
- Ex. 2011 (“Phys.org, *WWise Consortium Submits Joint Proposal to the IEEE 802.11 Task Group N*”) – FRE 801-802 and 901;
- Ex. 2016 (“Qualcomm.com, *MU-MIMO: How your Snapdragon processor powered device could be three times faster over Wi-Fi*”) – FRE 801-802 and 901;
- Ex. 2017 (“FierceWireless.com, *Qualcomm ups WiFi capacity via*

*802.11ac multiuser MIMO*) – FRE 801-802 and 901;

- Ex. 2018 (“Snapdragon Phone Finder”) – FRE 801-802 and 901;
- Ex. 2019 (“Declaration of Afzal Dean”) – FRE 401, 403, and 1002;
- Ex. 2020 (“Excerpts from IEEE Std 802.11 2016, *Part 11: Wireless LAN Medium Access Control and Physical Layer Specifications*”) – FRE 801-802 and 901; and
- Ex. 2022 (“Excerpts from Perahia, et al., *Next Generation Wireless LANs*”) – FRE 801-802 and 901.

### **EXHIBITS 2007 AND 2008**

Exhibits 2007 and 2008 are asserted by Patent Owner as providing background information for the inventors of the ’862 patent and for the original assignee of the ’862 patent. Patent Owner’s Preliminary Response (“POPR”) at pp. 3-4. However, these are merely printouts of LinkedIn pages purported to be associated with the inventors. Patent Owner has provided no authentication that these LinkedIn pages actually correspond to the inventors of the ’862 patent or that they provide accurate information purported for the inventors and the original assignee of the ’862 patent. Furthermore, Patent Owner has not authenticated the source of the content provided on these printouts or that the printouts are actually an accurate representation of this content as it appears on the LinkedIn website. Accordingly, Petitioner objects to Exhibits 2007 and 2008

under FRE 901 for a lack of authentication.

Additionally, Petitioner objects to Exhibits 2007 and 2008 as inadmissible hearsay under FRE 801 and 802 because they amount to out of court statements that are offered in the POPR (pp. 3-4) for the truth of the matter asserted. None of the hearsay exceptions under FRE 803 are satisfied by these out of court statements.

Furthermore, Patent Owner is effectively trying to use Exhibits 2007 and 2008 as testimonial evidence purported to emanate from the inventors without submitting a sworn affidavit from the inventors. This is in violation of 37 C.F.R. § 42.53(a), which requires that “[u]ncompelled direct testimony *must be* submitted in the form of an affidavit” (emphasis added). Accordingly, Petitioner additionally objects to Exhibits 2007 and 2008 as violating the requirements of 37 C.F.R. § 42.53(a).

### **EXHIBITS 2009-2011 AND 2016-2018**

Exhibits 2009, 2010, and 2011 are asserted by Patent Owner as providing background information for the original assignee of the ’862 patent and the market within which the original assignee operated. POPR at pp. 3-4. Similarly, Patent Owner asserts Exhibits 2016, 2017, and 2018 to support the proposition that the technology of the ’862 patent has had “widespread industry adoption.” POPR at p. 62. However, these Exhibits are merely printouts of purported online

articles and webpages. Patent Owner has not authenticated these Exhibits as actually corresponding to the online articles and webpages that they purport to be, let alone that they accurately reflect the information contained in the articles and webpages as of the date of publication identified in each Exhibit.

Accordingly, Petitioner objects to Exhibits 2009, 2010, 2011, 2016, 2017, and 2018 for lack of authentication.

Additionally, Petitioner objects to Exhibits 2009, 2010, 2011, 2016, 2017, and 2018 as inadmissible hearsay under FRE 801 and 802 because they amount to out of court statements that are offered in the POPR (pp. 3-4, 62) for the truth of the matter asserted. None of the hearsay exceptions under FRE 803 are satisfied by these out of court statements.

### **EXHIBIT 2019**

Patent Owner asserts Exhibit 2019 as providing evidence that other companies have executed licenses to the '862 patent in support of its secondary consideration arguments. POPR at p. 65. Exhibit 2019 merely states that Kyocera, Huawei, and ZTE entered into license agreements with Patent Owner for the '862 patent, but does not provide any specifics regarding these licenses, such as their terms, duration, or products to which these licenses apply. Ex. 2019 at ¶¶ 5-7. Accordingly, Petitioner submits that, without further details or information, the relevance of these purported licenses between Patent Owner and

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