

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FLEX LOGIX TECHNOLOGIES INC.,

Petitioner

V.

VENKAT KONDA,

Patent Owner

Case IPR2020-00261

Patent 8,269,523 B2

**PATENT OWNER'S MOTION TO EXCLUDE EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64(c)**

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I. INTRODUCTION & RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.64(c), 37 C.F.R. § 42.11, and 37 C.F.R. § 42.51(b)(iii) Patent Owner Venkat Konda (“Patent Owner” or “PO”) hereby moves to exclude from evidence exhibits Ex. 1002, Ex. 1003 and all the support presented in the Petition with respect to Ex. 1002 and Ex. 1003 served with the Petition (“Motion”). PO timely filed and served its objections to Ex. 1002 and 1003 on August 17, 2020. *See* Paper 25; 37 C.F.R. § 42.64; Paper 30, 1-2. PO submits the declaration of Venkat Konda under the penalty of perjury in support of the Motion. (*See*, Ex. 2033.) PO therefore respectfully requests the Board exclude this evidence.

II. REASONS WHY THE REQUESTED RELIEF SHOULD BE GRANTED

A. Prior to filing the Petitions, Petitioner should have known that Dr. Baker is not qualified as a Person of Ordinary Skill in the Art (“POSITA”) According to Its Own Definition and Should Not Have Filed Dr. Baker’s Declaration under the Penalty of Perjury

In the Petition, Petitioner submitted that “A person of ordinary skill in the art (“POSITA”) at the time of the alleged invention of the ‘523 Patent would have had a master’s degree in electrical engineering or a similar field, and at least two to three years of experience with integrated circuits and **networks**. (Ex. 1002, ¶¶18-19) Petitioner acknowledges that “[M]ore education can supplement practical experience and vice versa. (*Id.*)” (Petition, at 23)

However Petitioner's witness, Dr. Baker stated "All of my opinions stated in this declaration are based on my own personal knowledge and professional judgment. In forming my opinions, I have relied on my knowledge and experience in designing, developing, researching, and teaching regarding circuit design and **memory devices** referenced in this declaration." (Ex. 1002, ¶3). Notably, Petitioner's sole declarant by his own admission has no experience in **networks**. Expertise in networks is different from expertise in memory.

Dr. Baker submitted that he has education in Electrical Engineering and experience in "circuit designs for **networks** and communications." *See*, Ex. 1002 at ¶¶ 7-9. However, the term "**networks**" appears *only once* in Dr. Baker's entire CV of 35 pages. Even in that one instance "networks" is used to refer to *Aerohive Networks*, where Aerohive Networks is the name of a company (and the subject matter relates to **memory**, *not networks*) (*See*, Exhibit 1003 at 30.)

In comparison, the term "**memory**" appears *more than 150 times* in Dr. Baker's CV of 35 pages. (This count even excludes the terms DRAM, ROM, EPROM, EEPROM, etc. where the letter "M" stands for **memory** in these terms). Clearly, Dr. Baker's expertise is in **memory**. He has absolutely has no qualifications in "**networks**". Accordingly Dr. Baker **misrepresented** that he has

experience in networks in his declaration (Ex. 1002) which had no support in Dr. Baker's CV (Ex. 1003).

PO further contends that Dr. Baker is not qualified as a POSITA according to Petitioner's own definition, let alone as an expert witness regarding the field of **interconnection networks** which is very fundamental to the Challenged Claims of the '523 in the Petition. Expertise in the field of interconnection networks is totally different the expertise in the field of networks.

Furthermore a POSITA would have understood that in a multi-stage network forward connecting links are not connected from the last stage and backward connecting links are not connected from the first stage. Accordingly a POSITA would have easily understood that if there is only one stage in a multi-stage network, that single stage will neither have any forward connecting links or any backward connecting links and with no need for any experimentation let alone "undue experimentation". (See, Dr. Chaudhary's Decl., Exhibit 2025 at ¶¶32-34.) Accordingly Dr. Baker either does not have basic understanding of multi-stage networks or disingenuously gave his declaration in support of the Petition.

Therefor PO's contention is not about the sufficiency or the weight of Dr. Baker's declaration. PO's challenges the admissibility of Dr. Baker's declaration because Dr. Baker is simply not even qualified as a POSITA in view of Petitioner's

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