

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Juniper Networks, Inc. & Palo Alto Networks, Inc.,
Petitioners,

v.

Packet Intelligence LLC,
Patent Owner.

Case IPR2020-00337
Patent 6,771,646

**PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64(B)(1)**

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Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
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I. Introduction

Under the Federal Rules of Evidence and 37 C.F.R. § 42.64, Packet Intelligence LLC (“Patent Owner”) timely objects to evidence submitted by Juniper Networks, Inc. & Palo Alto Networks, Inc. (“Petitioners”) in this proceeding. Patent Owner may move to exclude the challenged exhibits under 37 C.F.R. § 42.64(c) unless Petitioners provide evidence curing the objections identified by Patent Owner below.

II. Specific Objections

A. Exhibit 1006 - Declaration of Dr. Jon B. Weissman

Patent Owner objects to Exhibit 1006 under Federal Rules of Evidence (“FRE”) 701-705 and 802 because Dr. Weissman has not been made available for deposition, and Patent Owner reserves the right to raise any additional objections that become apparent from his deposition at that time if he is made available for deposition.

B. Exhibit 1010 – RFC 1945- Hypertext Transfer Protocol -- HTTP/1.0

Patent Owner objects to Exhibit 1010 under FRE 901 because Petitioners have not produced any evidence “sufficient to support a finding that the item is what the proponent claims it is.” FRE 901(a). While Petitioners submitted a declaration as Exhibit 1083 in support, Exhibit 1083 merely claims that Exhibit 1010 is a true and correct copy of a document downloaded from the internet, not that it is actually RFC 1945. Furthermore, Petitioners have provided no foundation that would demonstrate that the Exhibit 1083 declarant has firsthand knowledge as to whether Exhibit 1010 is a true and correct copy of RFC 1945. Patent Owner also objects to Exhibit 1010

under FRE 802 as containing hearsay that does not fall within any applicable exceptions.

C. Exhibit 1026 - Chart comparing Riddle's Claims 1, 8, and 11 to '864 Provisional

Patent Owner objects to Exhibit 1026 as an attempt to circumvent the petition word count limit of 37 CFR § 42.24. *See* 2019 Consolidated Trial Practice Guide at 44 (“Claim charts submitted as part of a petition, motion, patent owner preliminary response, patent owner response, opposition, or reply count towards applicable word count limits...”).

D. Exhibit 1032 - PointCast Inc. is Testing a New Screen-Saver Product, The Wall Street Journal, April 15, 1996

Patent Owner objects to Exhibit 1032 under FRE 802 as containing hearsay that does not fall within any applicable exceptions. Patent Owner also objects to Exhibit 1032 under FRE 901 because Petitioners have not produced any evidence “sufficient to support a finding that the item is what the proponent claims it is.” FRE 901(a). While Petitioners submitted a declaration as Exhibit 1083 in support, Exhibit 1083 merely claims that Exhibit 1032 is a true and correct copy of a document downloaded from the internet, not that it was actually published in the Wall Street Journal at the relevant time. Furthermore, Petitioners have provided no foundation that would demonstrate that the Exhibit 1083 declarant has firsthand knowledge as to whether Exhibit 1032 is a true and correct copy of what it purports to be.

E. Exhibit 1033 - Gillin-Computer World May 13, 1996

Patent Owner objects to Exhibit 1033 under FRE 802 as containing hearsay that does not fall within any applicable exceptions. Patent Owner objects to Exhibit

1033 under FRE 106 for failing to introduce the document in its entirety. Patent Owner also objects to Exhibit 1033 under FRE 901 because Petitioners have not produced any evidence “sufficient to support a finding that the item is what the proponent claims it is.” FRE 901(a). While Petitioners submitted a declaration as Exhibit 1083 in support, Exhibit 1083 merely claims that Exhibit 1033 is a true and correct copy of a document downloaded from the internet, not that it was actually published in Computer World at the relevant time. Furthermore, Petitioners have provided no foundation that would demonstrate that the Exhibit 1083 declarant has firsthand knowledge as to whether Exhibit 1033 is a true and correct copy of what it purports to be.

F. Exhibit 1034 – Sneider - The Christian Science Monitor

Patent Owner objects to Exhibit 1034 under FRE 802 as containing hearsay that does not fall within any applicable exceptions. Patent Owner objects to Exhibit 1034 under FRE 106 for failing to introduce the document in its entirety – for example, page 2 of the document refers to an illustration, but no illustration is present. Patent Owner also objects to Exhibit 1034 under FRE 901 because Petitioners have not produced any evidence “sufficient to support a finding that the item is what the proponent claims it is.” FRE 901(a). While Petitioners submitted a declaration as Exhibit 1083 in support, Exhibit 1083 merely claims that Exhibit 1034 is a true and correct copy of a document downloaded from the internet, not that it was actually published in the Christian Science Monitor at the relevant time. Furthermore, Petitioners have provided no foundation that would demonstrate that

the Exhibit 1083 declarant has firsthand knowledge as to whether Exhibit 1034 is a true and correct copy of what it purports to be.

G. Exhibit 1035 - PointCast Inc. 1998 SEC Filings

Patent Owner objects to Exhibit 1035 under FRE 802 as containing hearsay that does not fall within any applicable exceptions.

H. Exhibit 1037 - RFC 765 File Transfer Protocol

Patent Owner objects to Exhibit 1037 under FRE 901 because Petitioners have not produced any evidence “sufficient to support a finding that the item is what the proponent claims it is.” FRE 901(a). While Petitioners submitted a declaration as Exhibit 1083 in support, Exhibit 1083 merely claims that Exhibit 1037 is a true and correct copy of a document downloaded from the internet, not that it is actually RFC 765. Furthermore, Petitioners have provided no foundation that would demonstrate that the Exhibit 1083 declarant has firsthand knowledge as to whether Exhibit 1037 is a true and correct copy of RFC 765.

I. Exhibit 1038 - RFC 791 Internet Protocol

Patent Owner objects to Exhibit 1038 under FRE 901 because Petitioners have not produced any evidence “sufficient to support a finding that the item is what the proponent claims it is.” FRE 901(a). While Petitioners submitted a declaration as Exhibit 1083 in support, Exhibit 1083 merely claims that Exhibit 1038 is a true and correct copy of a document downloaded from the internet, not that it is actually RFC 791. Furthermore, Petitioners have provided no foundation that would demonstrate that the Exhibit 1083 declarant has firsthand knowledge as to whether Exhibit 1038 is a true and correct copy of RFC 791.

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