

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DISH NETWORK L.L.C.,
Petitioner

v.

BROADBAND ITV, INC.,
Patent Owner

U.S. Patent No. 10,028,026

Case No. IPR2020-01267

**OBJECTIONS TO PATENT OWNER'S EVIDENCE CITED IN ITS
FORMAL RESPONSE**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner DISH Network L.L.C. (“DISH” or “Petitioner”) hereby objects to the exhibits cited and relied upon in Patent Owner’s May 10, 2021 response and the associated declarations of Dr. Michael Shamos, Mr. Milton Diaz Perez, Mr. Leighton Chong, Mr. Clif Kagawa, and Mr. Michael Kunkel and all accompanying exhibits on the following grounds. For each objected to exhibit, the pertinent Federal Rule of Evidence (“FRE”) or other rule that gives rise to the objection is provided, along with a brief summary of the basis of the objection.

I. DECLARATIONS

1. Exhibit 2035 – Declaration of Dr. Michael Shamos

Petitioner objects to the following paragraphs in Ex. 2035:

Paragraph(s)	Objection
¶¶ 38-39	FRE 402. The portions of this paragraph relating to alleged support for the claimed “internet-connected digital device” are irrelevant because they relate to passages that do not purport to describe any device that is part of the purported invention of the ’026 patent, and in some cases are passages from unincorporated portions of other patent applications.

Paragraph(s)	Objection
	<p>FRE 702. The statements and opinions set forth in these paragraphs are not based on sufficient facts or data, and are not the result of the application of accepted and reliable principles and methods to the facts of the case.</p>
¶ 40	<p>FRE 402. The portions of this paragraph relating to alleged support for the claimed “internet-connected digital device” are irrelevant because they relate to passages that do not purport to describe any device that is part of the purported invention of the ’026 patent, and in some cases are passages from unincorporated portions of other patent applications.</p> <p>FRE 702. The statements and opinions set forth in these paragraphs are not based on the expert’s scientific, technical, or other specialized knowledge, are not based sufficient facts or data, and are not the result of the application of accepted</p>

Paragraph(s)	Objection
	and reliable principles and methods to the facts of the case.
¶ 52	FRE 702. The statements and opinions set forth in these paragraphs are not based on the expert's scientific, technical, or other specialized knowledge, are not based on sufficient facts or data, and are not the result of the application of accepted and reliable principles and methods to the facts of the case.
¶¶ 67-69	FRE 702. The statements and opinions set forth in these paragraphs are not based on the expert's scientific, technical, or other specialized knowledge, are not based on sufficient facts or data, and are not the result of the application of accepted and reliable principles and methods to the facts of the case.
¶ 102	FRE 402. The portions of this paragraph relating to upload speeds in the year 2000 are irrelevant because obviousness is considered at the time of

Paragraph(s)	Objection
	alleged invention. Similarly the observation that content providers produce continuous, 24 hour programming is likewise irrelevant, as there is no requirement that all such programming be uploaded to the claimed Web-based content management system.
¶¶ 127-129	FRE 402. The portions of this paragraph relating to whether devices discussed in Kelts can receive and display video content is irrelevant, as BBiTV has taken the position that no such requirements are in the claim challenged claim.

2. Exhibit 2036 – Declaration of Milton Diaz Perez

Petitioner objects to the following paragraphs in Ex. 2036:

Paragraph(s)	Objection
¶ 4	FRE 402. The testimony in this paragraph is irrelevant because this paragraph lacks information as to when the events described within occurred.

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