

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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QUALCOMM INCORPORATED and  
ZYXEL COMMUNICATIONS CORPORATION,

Petitioner,

v.

UNM RAINFOREST INNOVATIONS,

Patent Owner.

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IPR2021-00375

Patent 8,265,096 B2

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PETITIONERS' OBJECTIONS TO EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b), Petitioners Qualcomm Incorporated and ZyXEL Communications Corporation respectfully assert the following objections to the evidence proffered in Paper 31, titled “PATENT OWNER’S OBJECTION TO THE EXPERT REPORT OF DR. ROY (EX1002),” submitted on December 16, 2021, and to Ex. 2015, submitted on December 20, 2021. These objections are being provided within five business days of service of the evidence to which the objection is directed, and are thus timely pursuant to 37 C.F.R. § 42.64(b)(1). The Federal Rules of Evidence (FRE) apply to these proceedings according to the provisions of 37 C.F.R. § 42.62(a), and these rules form the basis of the objections contained herein.

<b>Ex. Number and UNM’s Description</b>	<b>Objections</b>
<p>No exhibit number – evidence objected to provided within Paper 31. For example, UNM’s Paper 31, titled “PATENT OWNER’S OBJECTION TO THE EXPERT REPORT OF DR. ROY (EX1002),” purports to quote from Ex. 2014, which UNM has described as “[e]xcerpts from 12-06-21 rough draft depo transcript of</p>	<p><b>Incomplete, Irrelevant, Misleading, Authenticity (FRE 106, 401, 403, 901):</b>  On its face, the rough deposition transcript of Dr. Roy states: “A UNCERTIFIED ROUGH DRAFT TRANSCRIPT is not the OFFICIAL CERTIFIED TRANSCRIPT and may not be cited or quoted as the OFFICIAL CERTIFIED TRANSCRIPT in any proceedings. THIS IS NOT PERMITTED TO BE USED AS A REPLACEMENT FOR THE OFFICIAL CERTIFIED TRANSCRIPT.” Ex. 2014, 1.</p>

<p>Sumit Roy, Ph.D.” Paper 28, 56. However, the portions of the rough transcript reproduced and quoted in Paper 31 do not appear in Ex. 2014. For example, Ex. 2014 appears to include only pages 1, 71, and 72 of the Dr. Roy’s rough deposition transcript, yet UNM’s Paper 31 reproduces and relies on what it asserts are pages 57-58, 68-69, 79-80, 106, and 109-110 of Ex. 2014, but instead appear to be other portions of Dr. Roy’s rough deposition transcript not included in Ex. 2014. <i>See</i> Paper 31 at 2-6. Accordingly, Paper 31 includes new evidence not submitted as an exhibit, notwithstanding the requirements of 37 C.F.R. § 42.63(a).</p>	<p>Accordingly, UNM has not shown that the uncertified transcript of Dr. Roy, including the newly-submitted portions within Paper 31, presents a true and correct account of Dr. Roy’s testimony, and therefore the portions of the uncertified transcript contained within Paper 31 are irrelevant, misleading, and lack authenticity under FRE 401, 403, and 901, respectively, and further does not comply with 37 C.F.R. § 42.53(f)(6). In addition, the limited excerpts provide an incomplete characterization of Dr. Roy’s testimony.</p>
<p>Ex. 2015, which UNM represents is the “Deposition</p>	<p><b>Incomplete, Irrelevant, Misleading, Authenticity (FRE 106, 401, 403, 901):</b></p>

Transcript of Sumit Roy, Ph.D. dated 12-06-21”	On its face, Ex. 2015 purports to be the Dec. 6, 2021 deposition transcript of Dr. Roy. Ex. 2015, 1. However, the deposition transcript submitted as Ex. 2015 has not been read and signed by the witness, as required by 37 C.F.R. § 42.53(f)(5), and therefore does not account for any changes the witness may provide. <i>See</i> Ex. 2015, 31 (references pages 114-117 for witness changes and signature). Accordingly, UNM has not shown that this unverified transcript of Dr. Roy presents a true and correct account of Dr. Roy’s testimony, and therefore the portions of the unverified transcript are irrelevant, misleading, and lack authenticity under FRE 401, 403, and 901, respectively.
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Dated: December 23, 2021

Respectfully submitted,

*/Jonathan I. Detrixhe/*

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