

Filed on behalf of Petitioner by:
Michael N. Rader, Reg. No. 52,146
Adam R. Wichman, Reg. No. 43,988
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210
(617) 646-8000 Phone
(617) 646-8646 Fax

Paper No. ____

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THE DATA COMPANY TECHNOLOGIES INC.,
Petitioner,

v.

BRIGHT DATA LTD.,
Patent Owner.

Case No. IPR2022-00135
Patent No. 10,257,319

**PETITIONER'S MOTION TO EXCLUDE PATENT OWNER'S
CORRECTED EXHIBITS 2026 AND 2027**

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As directed by the Board in Paper 31, Petitioner moves to exclude as hearsay Patent Owner’s (“PO”) Corrected Exhibits (“CE”) 2026 and 2027.¹

I. Compliance With Trial Practice Guide p. 79 Requirements (a)-(d)

- (a) Petitioner objected to the CE as hearsay during the January 6, 2023 call.
- (b) PO relies on CE 2026: Paper 16, 72-73; Paper 29, 23; Ex. 2044 ¶¶ 230, 231; and on CE 2027: Paper 16, 72-74; Paper 29, 23; Ex. 2044 ¶¶ 229, 231-232.
- (c)-(d) Petitioner argues its hearsay objection below.

II. Background

CE 2026 and 2027 are piecemeal excerpts from transcripts of a federal court trial between PO and non-parties to this IPR. PO cites the excerpts as purported secondary considerations evidence (*i.e.*, supposed “long-felt need” and “copying”). Paper 16, 72-74. While the witnesses were addressed by name in a few places (CE 2026, 195, 196; CE 2027, 94, 131), there is no indication who testifies on pages 202-204 of CE 2026 and 149-150, 152-153 of CE 2027. The exhibits about which they testified—Trial Exhibits 2, 5, 80, 204, 221, 222, 298, 484, 526 (*see* CE 2026, 188, 190, 201-203; CE 2027, 96, 104, 149, 152)—have not been produced.

¹ CE 2026 and 2027 are late supplemental information. 37 C.F.R. § 42.123(b).

Over Petitioner’s objections, the Board provisionally authorized PO to file them, and ordered Petitioner to file this motion. Paper 31.

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