

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner

v.

THALES VISONIX, INC.,
Patent Owner

U.S. PATENT NO. 6,922,632

Case No. IPR2022-01305

PETITIONER'S OBJECTIONS TO EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner Meta Platforms, Inc. (“Petitioner”) submits the following objections to certain exhibits submitted by Patent Owner Thales Visionix, Inc. (“Patent Owner”) with its Patent Owner Response filed in answer to the *inter partes* review petition IPR2022-01305 (“Petition”) of U.S. Patent No. 6,922,632 (“632 patent”). These objections apply equally to Patent Owner’s reliance on these exhibits in any subsequently filed documents. These objections are timely filed and served within five business days of the filing and service of the Patent Owner Response on June 14, 2023. *See* Paper No. 30.

I. CHALLENGED EVIDENCE AND GROUNDS FOR OBJECTIONS

A. Exhibits 2007 and 2008

Petitioner objects to Exhibits 2007 and 2008 under the Federal Rules of Evidence (“FRE”) 702(a) because the declarant is not an expert. *See* Ex. 2007, Section II; Ex. 2008.

Petitioner also objects under FRE 401–403, FRE 702(b)-(d), FRE 703, and 37 C.F.R. § 42.65 to Exhibit 2007, Sections V, VII, VIII, IX, and X, because the declarant has not based his testimony on sufficient facts or data, reliably applied the principles and methods to the facts of the case, or provided testimony that is the product of reliable principles and methods. For example, the declarant bases certain claim construction arguments on purported dictionaries submitted as Exhibits 2011–

2016, although such dictionaries are not technical dictionaries and Patent Owner has not shown that either experts or persons of ordinary skill in the particular field would reasonably rely on them, and those exhibits are additionally inadmissible for the reasons discussed below and therefore do not form a proper basis for the declarant's opinion. *See* Ex. 2007, Section VII.

Petitioner additionally objects under FRE 401–403 and FRE 702–703 to Exhibit 2007, Sections VII, VIII, IX, and X as relying on inadmissible evidence that an expert in the particular field would not reasonably rely on, specifically the exhibits objected to below. Relatedly, Petitioner objects under FRE 802 to the extent that the declarant relied on hearsay statements from the below-referenced exhibits in these Sections.

Petitioner additionally objects to all portions of Exhibit 2007 that are not cited and expressly discussed in Patent Owner's Response, as such portions are irrelevant under FRE 401–403 and may not be incorporated by reference per 37 C.F.R. § 42.6(a)(3). To the extent Patent Owner attempts to rely on any such uncited and/or undiscussed portions of Exhibit 2007, such incorporation by reference is impermissible. 37 C.F.R. § 42.6(a)(3).

B. Exhibit 2010

Petitioner objects to Exhibit 2010 under FRE 702–703, and 37 C.F.R. §§ 42.2, 42.9, 42.10, 42.53, 42.61, and 42.65 as offering inadmissible testimony improperly

elicited by non-party Gentex Corporation (“Gentex”). Petitioner further objects to this exhibit under FRE 401, 402, and 403 as irrelevant, unfairly prejudicial, confusing the issues, wasting time, and/or presenting cumulative evidence.

As noted during the May 23, 2023 deposition of Petitioner's expert as to a separate petition IPR2022-01294, and as Petitioner noted in an email to the Board on May 26, 2023, Gentex is not the Patent Owner, but only a licensee without all substantial rights. Counsel for Gentex improperly posed cross-examination questions to Petitioner's expert, despite Petitioner's objections that questioning by counsel for a licensee is not permitted and despite the presence of Counsel for Patent Owner. *EMC Corp. v. Actividentity, Inc.*, IPR2017-00338, Paper No. 9 at 2 (P.T.A.B. July 3, 2017) (“[a]ccording to 35 U.S.C. § 313, it is the patent owner, not a licensee, who has the right to participate in inter partes review proceedings”). Petitioner timely sought authorization to preclude the submission into the record of the portions of the deposition transcript containing cross-examination conducted by Counsel for Gentex. As the Board confirmed on May 31, 2023, “[t]he parties to these proceedings are Petitioner and Patent Owner. *See* 37 C.F.R. §§ 42.2, 42.10(a). Accordingly, only counsel for which Patent Owner has filed a power of attorney (and subsequent mandatory notices) may ask questions of Petitioner's expert in a deposition. *See* 37 C.F.R. § 42.10(b). The panels are not aware of any Rule or other authority that permits a real party in interest to conduct a deposition of an opposing

party's expert." As Counsel for Gentex improperly posed all cross-examination and re-cross questions to Petitioner's expert, Petitioner objects to Exhibit 2010. *See* 37 C.F.R. § 42.61(a).

C. Exhibits 2011, 2012, 2013, 2014, 2015, and 2016

Petitioner objects to Exhibits 2011, 2012, 2013, 2014, 2015, and 2016 under FRE 401, 402, and 403 as irrelevant, unfairly prejudicial, confusing the issues, wasting time, and/or presenting cumulative evidence. Petitioner further objects to these exhibits under FRE 801 and 802 as inadmissible hearsay not falling within any recognized exception and under FRE 805 as hearsay within hearsay—to the extent Patent Owner relies on these exhibits for the truth of the matter asserted. Petitioner objects to these exhibits under FRE 901 as Patent Owner has failed to show that these documents are authentic or self-authenticated under FRE 902. For example, Exhibit 2015 bears a 1996 copyright date but Patent Owner refers to it as a 1999 reference. Petitioner objects to these exhibits under FRE 106 to the extent they exclude any other part of the writing that in fairness ought to be considered at the same time. For example, Exhibits 2012 and 2015 provide the definition for “configure” and “enumerate” from a particular dictionary, but exclude the definition of “couple.”

D. Exhibits 2017 and 2018

Petitioner objects to Exhibits 2017 and 2022 under FRE 401, 402, and 403 as

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