

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Google LLC,
Petitioner,

v.

WAG Acquisition, L.L.C.,
Patent Owner.

IPR2022-01413

U.S. Patent No. 9,762,636 B2

**PETITIONER'S MOTION TO EXCLUDE
PURSUANT TO 37 C.F.R. § 42.64**

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I. INTRODUCTION

Patent Owner WAG Acquisition, L.L.C. (“PO”) repeatedly turns to partial testimony from experts in *other* matters to purportedly support its arguments in its papers. This testimony is inadmissible hearsay; PO’s exhibits, in their entirety, are out of court statements from witnesses that Petitioner Google LLC (“Google”) never had an opportunity to cross-examine. Additionally, PO relies on an out of context analysis from an ITC proceeding—which Google did not participate in and did not involve the ’636 patent—to bolster an interpretation of a prior art reference that is inconsistent with the actual evidence in this proceeding. The ITC initial determination containing this discussion is irrelevant, as it involved fundamentally different issues and never addressed or analyzed the evidence presented here.

Therefore, pursuant to 37 C.F.R. § 42.64 and the Federal Rules of Evidence, Google moves to exclude the following of PO’s exhibits:

- **Exhibit 2003** – *The Walt Disney Co. v. WAG Acquisition, L.L.C.*, IPR2022-01228, Ex. 1002 (Declaration of Dr. Henry Houh)
- **Exhibit 2004** – May 23, 2023 Deposition of Dr. Kevin Jeffay in *Amazon.com, Inc. v. WAG Acquisition, L.L.C.*, IPR2022-01430 and -01433

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