

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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CRUSOE ENERGY SYSTEMS, LLC,  
Petitioner,

v.

UPSTREAM DATA INC,  
Patent Owner.

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Case PGR2023-00039  
Patent 11,574,372

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**PETITIONER'S OBJECTIONS TO EVIDENCE**

Pursuant 37 C.F.R. § 42.64(b), Petitioner objects to evidence submitted by Patent Owner in their Patent Owner's Preliminary Response filed October 24, 2023. Specifically, Petitioner objects to the following exhibits submitted by Patent Owner for the bases noted below:

<b>Exhibit</b>	<b>Objections (FRE)</b>
<b>EX2002</b>	<p><b>401-402:</b> This exhibit is not relevant because its purported date (December 8, 2020) is after the earliest possible priority date (February 8, 2017), and thus is not probative of the obviousness of the '372 patent. Further, it relates to a different technology (e.g., combining and synchronizing high-voltage outputs) and is not relevant to the obviousness of the claims at issue.</p> <p><b>403:</b> This exhibit should further be excluded because, in view of its post-priority date status, any purported relevance would be substantially outweighed by a danger of unfair prejudice and confusing the issues. Further, the quoted part of EX2002 (2:35-42) is misleading because it relates to a different technology, only identifies a commercial need and is not related to obviousness.</p>
<b>EX2003</b>	<p><b>401-402:</b> This exhibit is not relevant because its purported date (the filing date of August 1, 2019) is after the earliest possible priority date (February 8, 2017), and thus is not probative of the obviousness of the '372 patent. Further, it relates to a different technology (e.g., combining and</p>

	<p>synchronizing high-voltage outputs) and is not relevant to the obviousness of the claims at issue.</p> <p><b>403:</b> This exhibit should further be excluded because, in view of its post-priority date status, any purported relevance would be substantially outweighed by a danger of unfair prejudice and confusing the issues.</p>
<b>EX2006</b>	<p><b>401-402:</b> This exhibit is not relevant because Patent Owner has not produced evidence sufficient to support a finding that this exhibit is what Patent Owner claims it is.</p> <p><b>801-803:</b> To the extent statements therein are relied on for the truth of the matter asserted, they should be excluded as hearsay without any exception.</p> <p><b>901:</b> Patent Owner has not produced evidence sufficient to support a finding that this exhibit is what Patent Owner claims it is. This appears to be a video that contains no date of publication, and is not sufficiently authenticated. Upstream failed to establish that this is the same reference cited during prosecution of the '372 patent.</p>
<b>EX2007</b>	<p><b>401-402:</b> This exhibit is not relevant because Patent Owner has not produced evidence sufficient to support a finding that this exhibit is what Patent Owner claims it is. Further, it is not relevant because it relates to a different product ("Blockbox").</p>

	<p><b>901:</b> Patent Owner has not produced evidence sufficient to support a finding that this exhibit is what Patent Owner claims it is. This appears to be a website printout and is not sufficiently authenticated. Upstream failed to establish that this is the same reference cited during prosecution of the '372 patent.</p>
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These objections have been timely filed and are being concurrently served on the Patent Owner.

Respectfully submitted,

Dated: February 5, 2024

/John C. Phillips/

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## CERTIFICATE OF SERVICE

Pursuant to 37 CFR §§ 42.6(e)(1) and 42.6(e)(4)(iii), the undersigned certifies that on February 5, 2024, a complete and entire copy of this Petitioner's Objections to Evidence was provided by email to the Patent Owner by serving the email correspondence addresses of record as follows:

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