

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC.,
Petitioner,

v.

CENTRIPETAL NETWORKS, INC.,
Patent Owner.

Case No. IPR2018-01512
Patent No. 9,565,213

**PATENT OWNER'S OBJECTIONS TO EVIDENCE
UNDER 37 C.F.R. § 42.64**

Patent Owner Centripetal Networks, Inc. (“Centripetal” or “Patent Owner”) objects under the Federal Rules of Evidence and 37 C.F.R. § 42.64(b)(1) to the admissibility of the following documents submitted by Petitioner Cisco Systems, Inc. (“Petitioner” or “Cisco”) in its Petition for *Inter Partes* Review (Paper No. 1): Exhibits 1004, 1008, 1010-1012, 1015, and 1017 for the reasons discussed herein. The Institution Decision issued on March 20, 2019. Paper No. 8. Centripetal’s objections are timely under 37 C.F.R. § 42.64(b)(1).

I. PETITIONER’S EVIDENCE

A. Declaration of Dr. Kevin Jeffay (Ex. 1004, the “Jeffay Declaration”)

Patent Owner objects to the admissibility of the Jeffay Declaration for at least the following reasons.

Under Federal Rule of Evidence (“FRE”) 702, Dr. Jeffay’s opinions in the Jeffay Declaration are inadmissible because they are conclusory, do not disclose underlying facts or data in support of his opinions, and are unreliable.

In addition, the opinions in the Jeffay Declaration are irrelevant, confusing, beyond the proper scope of the Petition, and of minimal probative value under FRE 401, 402 and 403. Moreover, his opinions that rely on the exhibits discussed in these Objections are unreliable and inadmissible for the reasons set forth below.

For at least these reasons, the Jeffay Declaration is inadmissible under FRE 401, 402, 403 and 702.

B. Declaration of Eli Fuchs (Ex. 1012, “Fuchs Declaration”) and Cisco ACNS Guide (Ex. 1008, “ACNS Guide”)

Centripetal objects to the admissibility of the following exhibits for the reasons set forth herein: the Fuchs Declaration (Ex. 1012) and ACNS Guide (Ex. 1008). Centripetal also objects to the Fuchs Declaration because it is hearsay under FRE 801 and does not fall within any hearsay exception under FRE 802 and FRE 803.

Petitioner has failed to authenticate Exhibit 1008 because it has failed to establish that the exhibit is what Petitioner claims it is and thus it is inadmissible under FRE 901. Furthermore, to the extent Petitioner attempts to rely on the date that appears on the fact of Exhibit 1004 to establish its public accessibility as a printed publication, the date is hearsay under FRE 801 and does not fall within a hearsay exception under FRE 802 and FRE 803 because Petitioner has failed to authenticate the date by which it was allegedly publicly accessible. Moreover, because the date on Exhibit 1008 has not been authenticated, it is inadmissible under FRE 901. Accordingly, for the foregoing reasons, Exhibit 1008 is not relevant under FRE 401 and is inadmissible under FRE 402 and 403.

C. HTTP 1-1 Specification (Ex. 1010)

Centripetal objects to the admissibility of HTTP 1-1 Specification (Ex. 1010, “HTTP Specification”) for at least the following reasons. Petitioner has failed to authenticate the HTTP Specification and specifically, Petitioner has failed to

establish that the HTTP Specification is what Petitioner claims it is and thus it is inadmissible under FRE 901. Furthermore, to the extent Petitioner attempts to rely on the date that appears on the HTTP 1-1 specification to establish public accessibility as a printed publication, the date is hearsay under FRE 801 and does not fall within a hearsay exception under FRE 802 or FRE 803 because Petitioner has failed to authenticate the date by which the HTTP Specification was allegedly publicly accessible. Moreover, because the date has not been authenticated, it is also inadmissible under FRE 901. Further, the Board did not rely on the HTTP Specification in its Institution Decision. Accordingly, for the foregoing reasons, the HTTP Specification is irrelevant, confusing, and of minimal probative value under FRE 401, 402, and 403.

D. An Architecture for Differentiated Services (Ex. 1011, “Diffserv”)

Centripetal objects to the admissibility of An Architecture for Differentiated Services (Ex. 1011, “Diffserv”) for at least the following reasons. Petitioner has failed to authenticate the Diffserv and specifically, Petitioner has failed to establish that the Diffserv is what Petitioner claims it is and thus it is inadmissible under FRE 901. Furthermore, to the extent Petitioner attempts to rely on the date that appears on the Diffserv to establish public accessibility as a printed publication, the date is hearsay under FRE 801 and does not fall within a hearsay exception under FRE 802 or FRE 803 because Petitioner has failed to authenticate the date by

which the Diffserv was allegedly publicly accessible. Moreover, because the date has not been authenticated, it is also inadmissible under FRE 901. Accordingly, for the foregoing reasons, the Diffserv is irrelevant, confusing, and of minimal probative value under FRE 401, 402, and 403.

E. Objections to Exhibits Based on Relevance

In addition to the Objections set forth above, Patent Owner further objects to the admissibility of the following Exhibits under FRE 401, 402 and 403 because Petitioner did not rely on these Exhibits in its Petition: Exhibits 1015 and 1017.

Respectfully submitted,

Dated: April 3, 2019

/James Hannah /

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Patent Owner's Objections to Evidence
IPR2018-01512 (U.S. Patent No. 9,565,213)

(Case No. IPR2018-01512) *Attorneys for Patent Owner*

CERTIFICATE OF SERVICE

The undersigned certifies, in accordance with 37 C.F.R. § 42.6(e), that service was made on the Petitioner as detailed below.

Date of service April 3, 2019

Manner of service Electronic Mail

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Documents served PATENT OWNER'S OBJECTIONS TO EVIDENCE

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