

Filed on behalf of Pi-Net International, Inc.

By: Tam Thanh Pham

L. May Eaton

Colby B. Springer

LEWIS ROCA ROTHGERBER *LLP*

2440 W. El Camino Real, Sixth Floor

Mountain View, CA 94040

Tel: (650) 391-1380

Fax: (650) 391-1395

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Covered Business Method Patent Review of U.S. Patent No. 8,037,158

SAP AMERICA, INC.

Petitioner

v.

PI-NET INTERNATIONAL, INC.

Patent Owner

CASE CBM2013-00013

Patent 8,037,158

PATENT OWNER'S OPPOSITION TO MOTION TO EXCLUDE EVIDENCE

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Table of Authorities

Cases

- (i) *Lorraine v. Markel American Insurance Co.*, 241 F.R.D. 534
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- (ii) *Premier Nutrition, Inc. v. Organic Food Bar, Inc.*, No.
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- (iii) *Perfect 10, Inc. v. Cybernet Ventures, Inc.*, 213 F. Supp. 2d 1146
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- (iv) *U.S. v. Vidacak*, 553 F.3d 344, 349 (4th Cir. 2009) 3
- (v) *Alexander v. CareSource*, 576 F.3d 551 (6th Cir. 2009)..... 3
- (vi) *United States v. Tank*, 200 F.3d 627 (9th Cir. 2000)..... 3
- (vii) *Neev v. Abbott Med. Optics, Inc.*, CIV. 09-146 RBK,
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- (viii) *Eli Lilly and Co. v. Barr Labs., Inc.*, 251 F.3d 955 (Fed. Cir. 2001) 5
- (ix) *In re Wilson*, 311 F.2d 266, 268–269 (CCPA 1962)..... 5
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I. Introduction

Patent Owner Pi-Net International, Inc. (“Patent Owner”) opposes Petitioner SAP America Inc.’s (“Petitioner”) Motion to Exclude Evidence in this proceeding, and requests that the Board deny the motion in its entirety. As shown below, and contrary to Petitioner’s representations, the documentary evidence subject to Petitioner’s motion is admissible under the Federal Rules of Evidence and the Code of Federal Regulations.

The Board should dismiss Petitioner’s Motion to Exclude Patent Owner’s Exhibits 2014–2016, 2018, and 2019 in its entirety, because each of the Exhibits is properly authenticated and non-hearsay. Additionally, Exhibits 2014–2016, 2018, and 2019 are admissible under FRE 401 and do not lack foundation.

II. Exhibits 2014–2016, 2018, and 2019 are Properly Authenticated

Printouts of electronic information have long been held to be admissible. *See e.g., Loraine v. Markel American Insurance Co.*, 241 F.R.D. 534, 576–583 (D. Md. 2007). Exhibits 2014–2016, 2018, and 2019 are printouts of webpages. In determining whether printouts of Internet websites are sufficiently authenticated, courts will consider the “distinctive characteristics” of the website. *See Premier Nutrition, Inc. v. Organic Food Bar, Inc.*, No. SACV-06-0827 AG (RNBx), 2008 WL 1913163, at *6 (C.D. Cal. Mar. 27, 2008) *aff’d*, 327 F. App’x 723 (9th Cir. 2009). For example, printouts of webpages have been determined to be

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