

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

QUALTRICS, LLC
Petitioner

v.

OPINIONLAB, INC.
Patent Owner

Case IPR2014-00366¹
U.S. Patent 8,041,805

**PETITIONER'S OBJECTIONS TO
PATENT OWNER'S DEMONSTRATIVES**

¹ Related cases: IPR2014-00356 (Patent 6,606,581), IPR2014-00406 (Patent 7,085,820), IPR2014-00420 (Patent 7,370,285), IPR2014-00421 (Patent 8,024,668)

Under the Board's March 10, 2015 Trial Hearing Order (Paper 43), Petitioner Qualtrics, LLC objects to Patent Owner OpinionLab Inc.'s demonstrative slides for IPR2014-00366 (8,041,805 Patent), IPR 2014-00356 (6,606,581 Patent), and IPR2014-00406 (7,085,820 Patent).

Petitioner objects to the demonstratives on the ground that they impermissibly raise new arguments not previously "raised in a paper." 37 C.F.R. § 42.70(a); Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48768 (Aug. 14, 2012). Demonstratives are "not intended to introduce new evidence or to be presented as additional briefing in the proceeding." *Guangdong Xinbao Electrical Appliances Holdings Co. v. Adrian Rivera*, IPR2014-00042, Paper 44 at 2 (Oct. 27, 2014). Further, the "burden on showing that a demonstrative slide does not present new argument or new evidence is on the party presenting the slide," and "it cannot be made overly cumbersome for the Board and the opposing party to determine whether something is new." *CBS Interactive Inc. v. Helferich Patent Licensing, LLC.*, IPR2013-00033, Paper 118 at 4 (Oct. 23, 2013).

None of Patent Owner's demonstratives contain citations to the record establishing that the demonstrative does not present new arguments or evidence. Thus, it is "overly cumbersome" to determine whether any demonstrative presents new argument or evidence. Petitioner specifically objects to certain demonstrative slides as set forth below.

Slide No.	Petitioner’s Objections to Patent Owner’s Demonstratives for IPR2014-00366 (’805 Patent), IPR 2014-00356 (’581 Patent), and IPR2014-00406 (’820 Patent)
16	Petitioner objects to the statement “Petitioner <i>concedes</i> that its ‘cited disclosure says nothing about how the resulting survey is displayed’” on the ground that the quoted statement refers to Patent Owner’s cited disclosure, not to Petitioner’s.
17	Petitioner objects to the statements regarding CustomerSat’s disclosure of a “Pop!Up questionnaire” and “‘Pop!Up’ is a marketing term” on the ground that these are new arguments that were not previously raised by Patent Owner.
23	Petitioner objects to the statement “Multiple boxes, buttons, checkboxes, etc. on one page makes perfect sense in Chapter 20 ... Putting Chapter 21’s call button and resulting comment form on one page makes no sense” on the ground that this is a new argument that was not previously raised by Patent Owner.
25	Petitioner objects to the statements “The ‘scrolling’ limitation was not considered distinguishing in the Final Office Action” and “Wu’s disclosure is unclear in any event” on the grounds that they (1) are wrong; and (2) are new and were not previously raised by the Patent Owner.
34	Petitioner objects to the statement “Cannot provide proper motivation to combine with <i>every</i> other software program for <i>every</i> purpose” on the ground that it is a new argument and was not previously raised by Patent Owner.

Finally, Petitioner objects to Patent Owner’s demonstratives to the extent they contain or rely upon the testimony of Patent owner’s expert, Dr. Shamos, that is the subject of Petitioner’s pending motion to exclude.

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Respectfully submitted,

Dated: April 20, 2015

By: /s/ Robert Steinberg

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CERTIFICATE OF SERVICE

Under 37 C.F.R. § 42.6(e) and the parties' agreement to electronic service on August 21, 2014, I certify that on April 20, 2015, a copy of:

**PETITIONER'S OBJECTIONS TO
PATENT OWNER'S DEMONSTRATIVES**

was served by e-mail on Patent Owner's lead and backup counsel, as follows:

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