

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

Parrot S.A. and Parrot, Inc.

Petitioners,

v.

Drone Technologies, Inc.

Patent Owner

Case IPR2014-00732

U.S. Patent No. 8,106,748

Before HOWARD B. BLANKENSHIP, MATTHEW R. CLEMENTS, and
CHRISTOPHER M. KAISER, *Administrative Patent Judges*.

**PETITIONER'S OPPOSITION TO
PATENT OWNER'S MOTION TO EXCLUDE
DECLARATION OF DR. RAFFAELLO D'ANDREA [EXHIBIT 1011]**

EXHIBIT LIST

Exhibit #	Reference Name
Ex. 1001	U.S. Patent No. 8,106,748 ("the '748 Patent")
Ex. 1002	U.S. Patent No. 5,043,646 ("Smith")
Ex. 1003	French Patent No. 9901683 to Potiron
Ex. 1004	Certified Translation of French Patent No. 9901683 ("Potiron")
Ex. 1005	U.S. Pat. Pub. No. 2006/10144994 A1 ("Spirov")
Ex. 1006	EXHIBIT INTENTIONALLY LEFT BLANK
Ex. 1007	U.S. Pat. No. 7,219,861 ("Barr")
Ex. 1008	U.S. Pat. No. 6,751,529 ("Fouche")
Ex. 1009	U.S. Pat. No. 7,145,551 ("Bathiche")
Ex. 1010	U.S. Pat. Pub. No. 2004/0263479 ("Shkolnikov")
Ex. 1011	Expert Declaration of Prof. Raffaello D'Andrea with Attachments A-C
Ex. 1011, Att. A	U.S. Patent No. 613,809 to Tesla ("Tesla")
Ex. 1011, Att. B	U.S. Patent No. 3,101,569 to Giardina ("Giardina")
Ex. 1011, Att. C	U.S. Patent No. 8,072,417 ("Jouanet")
Ex. 1012	Claim Chart Demonstrating Invalidity of the '748 Patent
Ex. 1013	Declaration of Deborah A. Skolaski
Ex. 1014	Declaration of James E. Hopenfeld
Ex. 1015	Declaration of Prof. Raffaello D'Andrea

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Ex. 1016	Prof. D'Andrea Deposition Transcript (Jan. 8, 2015)
Ex. 1017	Email from Prof. Raffaello D'Andrea to James Hopenfeld dated April 30, 2014
Ex. 1018	Email from James Hopenfeld to Prof. Raffaello D'Andrea dated April 29, 2014

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I. INTRODUCTION

Petitioners Parrot S.A. and Parrot, Inc. (collectively "Petitioner") respectfully submit this Opposition to Patent Owner's Motion to Exclude (Paper 19). Because Exhibit 1011, the Declaration of Dr. Raffaello D'Andrea Regarding U.S. Patent No. 8,106,748 ("the Declaration") is admissible, Patent Owner's motion to exclude should be denied.

II. PATENT OWNER'S MOTION AND REQUESTED RELIEF IS UNTIMELY

Patent Owner's request to exclude Exhibit 1011, the Declaration of Prof. Raffaello D'Andrea in Support of Petitioner's Petition to Institute *Inter Partes* Review, is untimely. Patent Owner bases its motion on the fact that Prof. D'Andrea's declaration mistakenly included the signature page from his declaration in related proceeding, Case No. IPR2014-00730 (the '730 Proceeding), and that, as result, he never signed his declaration.

Objections to evidence, such as supporting declarations, are governed by 37 C.F.R. § 42.64:

§42.64 Objection; motion to exclude; motion in *limine*.

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- (b) Other evidence. For evidence other than deposition evidence:
 - (1) Objection. Any objection to evidence submitted during a preliminary proceeding must be served within ten business days of the institution of the trial. Once a trial has been instituted,

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any objection must be served within five business days of service of evidence to which the objection is directed. The objection must identify the grounds for the objection with sufficient particularity to allow correction in the form of supplemental evidence.

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- (c) Motion to exclude. A motion to exclude evidence must be filed to preserve any objection. The motion must identify the objections in the record in order and must explain the objections. The motion may be filed without prior authorization from the Board.

Patent Owner failed to make a timely objection under § 42.64(b)(1). There is no dispute that Prof. D'Andrea's declaration is evidence that was submitted during a preliminary proceeding. Prof. D'Andrea's declaration was signed on April 30, 2014, and submitted with the Petition on May 6, 2014. Nor is there any dispute that Patent Owner did not object to Prof. D'Andrea's declaration within ten business days of the institution of trial. Trial was instituted on October 28, 2014. Patent Owner claims to have objected to Prof. D'Andrea's declaration on January 22, 2015, more than two months after the statutory deadline to object.

Without citation to any authority, Patent Owner seeks to be excused from the requirements of § 42.64(b)(1). Patent Owner claims that it was not aware of the allegedly defective signature until January 9, 2015, when Prof. D'Andrea was deposed for purposes of this proceeding and the '730 Proceeding. At his

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