

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TELESIGN CORPORATION
Petitioner

v.

TWILIO, INC.
Patent Owner

Case IPR2017-01977
Patent No. 8,755,376

**PETITIONER'S OBJECTIONS TO PATENT OWNER'S EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

Petitioner TeleSign objects under the Federal Rules of Evidence and 37 C.F.R. § 42.62 to the admissibility of Exhibits 2010, 2018-2020, 2022, 2023, 2025-27, 2029, 2040, 2046-54, 2055-70 (the “Challenged Exhibits”) cited in Twilio Inc.’s Patent Owner’s Response (Paper 26). These objections are being timely filed within five (5) business days of Twilio’s service of the exhibits to which these objections are directed. TeleSign files and serves Twilio with these objections to provide notice that TeleSign may move to exclude the Challenged Exhibits and Paper 26 under 37 C.F.R. § 42.64(c).

1. Ex. 2010

TeleSign objects to ¶¶ 130-158 of Exhibit 2010 – the secondary considerations of non-obviousness section of Dr. Negus’ expert declaration – as improper expert testimony under Federal Rules of Evidence (“FRE”) 702 and 703. Dr. Negus is not qualified to offer the proffered expert testimony, the testimony is based on insufficient facts or data, is not the product of reliable principles and methods, and Dr. Negus has not reliably applied the appropriate principles and methods to the facts. TeleSign further objects to ¶¶ 130-158 of Exhibit 2010 as improperly relying on hearsay, namely the statements from Patent Owner’s co-founder John Wolthuis set forth in ¶¶ 144-148 of Exhibit 2010 as well as Exhibits 2022-23, 2029, 2040, 2055-58, 2059-62, and 2069-70, in violation of FRE 801-802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 805.

2. EX. 2018

TeleSign objects to Exhibit 2018 as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807. TeleSign further objects to the Exhibit 2018 as irrelevant under FRE 402 and 403. In addition, even if relevant, the probative value of the evidence is outweighed by its tendency to confuse the issues, cause undue delay, and waste the time of the Board and Petitioner such that the evidence should be excluded under FRE 403.

3. EX. 2019, EX. 2020, EX. 2022, EX. 2023, EX. 2029, EX. 2055, EX. 2056, EX. 2057, EX. 2058, EX. 2069, EX. 2070

TeleSign objects to Exhibits 2019-2020, 2022-2023, 2029, 2055-58, and 2069-2070 as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

4. EX. 2040, EX. 2059, EX. 2060, EX. 2061, EX. 2062

TeleSign objects to Exhibits 2040 and 2059-62 as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807. TeleSign further objects to the admissibility of Exhibit 2040 and 2059-62 under FRE 402 as irrelevant at least because there is no evidence tending to show that any company chose to become a Twilio customer because of patented technology. In addition, even if relevant, the probative value of the evidence is outweighed by its tendency to confuse the issues, cause undue delay, and

waste the time of the Board and Petitioner such that the evidence should be excluded under FRE 403.

5. EX. 2025, EX. 2026, EX. 2027

TeleSign objects to Exhibits 2025-2027 as inadmissible under FRE 602 because no foundation has been laid for these documents such that the Board will be unable to understand these documents without representations by counsel or speculation, either of which would be improper. TeleSign further objects to the admissibility of Exhibits 2025-2027 under FRE 402 as irrelevant. In addition, even if relevant, the probative value of the evidence is outweighed by its tendency to confuse the issues, cause undue delay, and waste the time of the Board and Petitioner such that the evidence should be excluded under FRE 403.

6. EX. 2046

TeleSign objects to Exhibit 2046 as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807 to the extent it is used to show the date printed on any Exhibit is its publication date.

7. EX. 2047, EX. 2048, EX. 2049, EX. 2050, EX. 2051, EX. 2052, EX 2053, EX. 2054, EX. 2063, EX. 2064, EX. 2065, EX. 2066, EX. 2067

TeleSign objects to Exhibits 2047-2054 and 2063-2067 under FRE 901 as lacking a proper authentication. Patent Owner has failed to produce any evidence to

support a finding that these exhibits are what the Patent Owner claims they are. TeleSign further objects to the admissibility of Exhibits 2047-2054 and 2063-2067 under FRE 602 because no foundation has been laid for these documents such that the Board will be unable to understand these documents without representations by Twilio's counsel or speculation, either of which would be improper.

8. EX. 2068

TeleSign further objects to the admissibility of Exhibit 2068 as irrelevant under FRE 402 at least because this document contains only attorney argument that is not probative of any issue in this IPR proceeding. In addition, even if relevant, the probative value of the evidence is outweighed by its tendency to confuse the issues, cause undue delay, and waste the time of the Board and Petitioner such that the evidence should be excluded under FRE 403.

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