

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

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TELESIGN CORPORATION
Patent Owner,

v.

TWILIO INC.
Patent Owner

Case IPR2017-01977
Patent 8,755,376

**PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE AND
A PORTION OF PETITIONER'S REPLY BRIEF PURSUANT TO 37 C.F.R.
§ 42.64(b)(1)**

Under the Federal Rules of Evidence and 37 C.F.R. § 42.64(b)(1), Patent Owner objects to the admissibility of Exhibits 1017, 1018, 1019, and 1020 (the “Challenged Exhibits”) cited in Petitioner’s Reply (Paper 30). Patent Owner also objects to the admissibility of Petitioner’s Reply (Paper 30) because it contains new evidence and argument that was not included in the Petition. These objections are being timely filed within five (5) business days of Petitioner’s service of the papers to which these objections are directed. Patent Owner files and serves Petitioner with these objections to provide notice that Patent Owner intends to move to exclude the Challenged Exhibits and Paper 30 under 37 C.F.R. § 42.64(c).

I. EXS. 1017, 1018, AND 1020

Patent Owner objects to Exhibits 1017, 1018, and 1020 as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions.

II. EX. 1019

Patent Owner objects to Exhibit 1019 (Dr. Nielson’s Supplemental Declaration) as irrelevant and prejudicial under FRE 401-403 and outside the scope under FRE 611(b) as relying on untimely supplemental evidence under 37 C.F.R. § 42.64(b)(2). *See Intelligent Bio-Sys., Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369 (Fed. Cir. 2016).

III. REPLY BRIEF (PAPER 30)

Petitioner's Reply (Paper 30) identifies new evidence that was not included in the Petition and is therefore irrelevant and prejudicial under FRE 401-403 and outside the scope under FRE 611(b) as untimely supplemental evidence under 37 C.F.R. § 42.64(b)(2). "It is of utmost importance that petitioners in the IPR proceedings adhere to the requirement that the initial petition identify 'with particularity' the 'evidence that supports the grounds for the challenge to each claim.'" *Intelligent Bio-Sys., Inc.*, 821 F.3d at 1369 (citing 35 U.S.C. § 312(a)(3)). Patent Owner objects to each of the following portions of the Reply as irrelevant and prejudicial under FRE 401-403 and outside the scope under FRE 611(b) as relying on untimely supplemental evidence under 37 C.F.R. § 42.64(b)(2):

- Ground 1 – Claim 1[a]: "a plurality of API resources." The Petition identifies "various telephony-based servers" (e.g., TEL 20) as "a plurality of API resources." Petitioner points to new evidence in Reply, pointing to Maes's "enumeration values" such as MakeCall and TransferCall as "a plurality of API resources" for the first time. (Ex. 1003 at cols. 34-35). Reply, 7.
- Ground 1 – Claim 1[b][ii]: "responding to the API request according to the request and the specified resource URI." Petitioner relies for the first

time in Reply on Ransom (and Figure 20 of Ransom) (Ex. 1004 at Figure 20) for this limitation. Reply, 14-15.

- Ground 1 – Claim 16 – Petitioner relies for the first time in Reply on Maes’ “TEL 20’s collecting-digits-functionality” as the “informational API resource” required by Claim 1[a][iv]. Reply, 15-16 (compare Pet., 20 (citing “the collected digits” of Maes (Ex. 1003))).
- Ground 3 – Claim 1[a]: “a plurality of API resources.” The Petition identifies “the functionality of sending an SMS message and initiating a phone call, respectively, over a telephony network, i.e., a plurality of API resources.” Pet., 44-45. In Reply, Petitioner points to the Parlay X Web Services (Ex. 1006) more generally, constituting new evidence. Reply, 17.
- Ground 3 – Claim 1[b]: “the plurality of API resources.” The Petition identifies “the getReceivedSMS API resource, i.e., a plurality of API resources.” Pet., 50. In Reply, Petitioner points to the Parlay X Web Services (Ex. 1006) more generally, constituting new evidence. Reply, 17.
- Ground 3 – Claim 16: Petitioner failed to address this claim in the Petition and now asserts that its assertions for claim 1 satisfy the

limitations of claim 16. Reply, 21. All evidence (i.e., citations to Pet., 49, 52-55) cited in the Reply is brand-new evidence for claim 16.

- Portions of the Reply relying on Ex. 1019 (Paper 30 at 9)– Patent Owner objects to the portions of the Reply relying on and citing to Ex. 1019 as irrelevant and prejudicial under FRE 401-403 and outside the scope under FRE 611(b) as relying on untimely supplemental evidence under 37 C.F.R. § 42.64(b)(2) and for the reasons for the reasons set forth for Ex. 1019, above.
- Portions of the Reply relying on Exs. 1017, 1018, and 1020 (Paper 30 at 6, 8, 25-26) – Patent Owner objects to the portions of the Reply relying on and citing to Exs. 1017, 1018, and 1020 as irrelevant and prejudicial under FRE 401-403 and outside the scope under FRE 611(b) as relying on untimely supplemental evidence under 37 C.F.R. § 42.64(b)(2) and for the reasons for the reasons set forth for Exs. 1017, 1018, and 1020, above.

Patent Owner objects to portions of the Reply relying on Ex. 2004 (Paper 30 at 8) as incomplete under FRE 106.

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