

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THE DATA COMPANY TECHNOLOGIES INC.,
Petitioner,

v.

BRIGHT DATA LTD.,
Patent Owner.

IPR2022-00135 (Patent 10,257,319)
IPR2022-00138 (Patent 10,484,510)¹

Before THOMAS L. GIANNETTI, SHEILA F. McSHANE, and
RUSSELL E. CASS, *Administrative Patent Judges*.

GIANNETTI, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

¹ The parties are not authorized to use this caption.

INTRODUCTION

On January 6, 2023, counsel for Petitioner, The Data Company Technologies, Inc., counsel for Patent Owner, Bright Data Ltd., and the panel conducted a telephone conference call to discuss Patent Owner's request to file corrected versions of Exhibits 2026 and 2027. These exhibits contain excerpts from a transcript of a trial involving Petitioner and a third party (Teso). According to Petitioner's counsel, a clerical error in filing the exhibits resulted in the wrong pages being filed. Petitioner seeks authorization to file replacement versions of the exhibits with the correct pages.

Petitioner opposes the request on several grounds. Petitioner asserts that the request was made in an *ex parte* emailed communication to the Board that was sent without meeting and conferring with Petitioner. Petitioner objects also to the request as untimely and therefore prejudicial. Patent Owner responds that the corrected exhibits were timely supplied to Petitioner as supplemental evidence under 37 C.F.R. § 42.64 (b) (2) in response to Petitioner's objections to Exhibits 2026 and 2027. Patent Owner also stated that if the replacement versions of the exhibits were permitted to be filed it would file a motion to exclude them on the basis of hearsay.

After considering the positions of the parties, the panel reminded Petitioner's counsel to avoid further *ex parte* submissions to the Board and always to meet and confer with Patent Owner's counsel before requesting relief from the Board. The panel also indicated to Patent Owner's counsel that Petitioner's counsel should have been contacted after Patent Owner's counsel noticed the mistake in the exhibits.

The panel determines after hearing argument and balancing the factors that it is in the interest of justice to permit correction of the exhibits on a

IPR2022-00135 (Patent 10,257,319)

IPR2022-00138 (Patent 10,484,510)

provisional basis. At the same time, the panel wishes to expedite a ruling on Patent Owner's hearsay objections to the exhibits.

ORDER

In view of the foregoing, it is

ORDERED that in each of these proceedings Petitioner is provisionally authorized to file the corrected versions of Exhibits 2026 and 2027 previously supplied to Patent Owner;

FURTHER ORDERED that within five business days from entry of this Order Petitioner will file a motion to exclude Exhibits 2026 and 2027 on the basis of hearsay only;

FURTHER ORDERED that within five business days from receipt of Petitioner's motion to exclude Patent Owner may file an opposition;

FURTHER ORDERED that Petitioner's motion to exclude and Patent Owner's opposition are each limited to five pages; and

FURTHER ORDERED that no further briefing on the motion to exclude is authorized at this time.

FOR PETITIONER:

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IPR2022-00135 (Patent 10,257,319)

IPR2022-00138 (Patent 10,484,510)

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