

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

MAJOR DATA UAB,  
Petitioner

v.

BRIGHT DATA LTD.,  
Patent Owner.

---

Case IPR2022-00915  
Patent 10,257,319

---

**PETITIONER MAJOR DATA UAB'S  
MOTION TO EXCLUDE EVIDENCE**

Mail Stop PATENT BOARD  
Patent Trial and Appeal Board  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Petitioner hereby moves to exclude evidence included in Patent Owner's Sur-Reply filed on May 1, 2023 (Paper 38), pursuant to 37 C.F.R. § 42.64(c).

### **I. Compliance With Trial Practice Guide**

Petitioners comply with requirements (a)-(d) found in the Board's Trial Practice Guide (p.79):

- (a) Petitioner objected to the new evidence in Patent Owner's Sur-Reply in Petitioner's Objections filed May 8, 2023 (Paper 41), within five business days of service of Patent Owner's Sur-Reply, pursuant to 37 C.F.R. § 42.64(b)(1).
- (b) Patent Owner relies on the new evidence on page 29 of its Sur-Reply, in the chart reproduced below in Section II.
- (c)-(d) Petitioner argues below in Section II that the evidence should be excluded because it is new evidence.

### **II. Patent Owner's New Evidence in its Sur-Reply Should be Excluded**

Patent Owner included the following table in its Sur-Reply:

<b>Residential Proxy Service</b>	<b>Data Center Proxy Service</b>
72 million+ residential IP addresses	1.6 million datacenter IP addresses
Approx. \$53.7 million revenue in 2021	Approx. \$22.1 million revenue in 2021 <sup>13</sup>

Sur-Reply at 29. As shown above, Patent Owner’s purported support for “Approx. \$22.1 million revenue in 2021” is its footnote 13, which cites to a document from another proceeding: “IPR2022-00687, Paper 18 at 75 (PTAB Jan. 20, 2023).” *Id.* at n.13.

Petitioner moves to exclude the alleged new evidence cited in footnote 13 from a different proceeding (IPR2022-00687) and the evidentiary sentence (“Approx. \$22.1 million revenue in 2021”) that is based on the new evidence.

The basis for Petitioner’s motion is simple: Patent Owner cannot include new evidence in its Sur-Reply. 37 CFR § 42.23 (“A sur-reply may only respond to arguments raised in the corresponding reply and may not be accompanied by new evidence other than deposition transcripts of the cross-examination of any reply witness.”); Patent Trial and Appeal Board Consolidated Trial Practice Guide (November 2019) at 73 (same). Not only has Patent Owner included new evidence in its Sur-Reply, but the cited evidence is not even from this proceeding.

For the foregoing reasons, Petitioner moves for the Board exclude this new evidence.

Date: May 25, 2023

/Liang Huang/

Liang Huang (Reg. No. 67,016)  
Wensheng Ma (Reg. No. 80,420)  
Jason R. Bartlett (admitted *pro hac vice*)

Mauriel Kapouytian Woods LLP  
15 W. 26th Street, 7th Floor  
New York, NY 10010

*Attorneys for Petitioner,*  
MAJOR DATA UAB

**CERTIFICATE OF SERVICE**

Pursuant to 37 CFR § 42.6(e), the undersigned certifies that on May 25, 2023, a complete and entire copy of **PETITIONER MAJOR DATA UAB'S MOTION TO EXCLUDE EVIDENCE** was served via e-mail on Patent Owner's Lead Counsel and First Back-Up Counsel:

Thomas M. Dunham  
[tomd@cherianllp.com](mailto:tomd@cherianllp.com)

Robert M Harkins  
[bobh@cherianllp.com](mailto:bobh@cherianllp.com)

Elizabeth A. O'Brien  
[elizabetho@cherianllp.com](mailto:elizabetho@cherianllp.com)

Date: May 25, 2023

/Liang Huang/  
Liang Huang (Reg. No. 67,016)

Mauriel Kapouytian Woods LLP  
15 W. 26th Street, 7th Floor  
New York, NY 10010

*Attorneys for Petitioner,*  
Major Data UAB