

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MAJOR DATA UAB,

Petitioner

v.

BRIGHT DATA LTD.,

Patent Owner

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Case IPR2022-00915

Patent No. 10,257,319

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**PATENT OWNER'S OPPOSITION  
TO PETITIONER'S MOTION TO EXCLUDE**

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

Based on Petitioner’s Motion to Exclude, it is unclear whether Petitioner seeks to exclude Patent Owner’s recitation of the data center proxy service having “Approx. \$22.1 million revenue in 2021” and/or Patent Owner’s citation in footnote 13 to “IPR2022-00687, Paper 18 at 75 (PTAB Jan. 20, 2023)”. *See generally* Paper 43.

Regardless, Petitioner’s Motion to Exclude should be denied for at least 4 reasons.

**First**, Petitioner’s Motion to Exclude is effectively an unauthorized motion to strike and should be denied on that basis alone. *See* Patent Trial and Appeal Board Consolidated Trial Practice Guide (November 2019) (“TPG”) at 79 (explaining that a motion to exclude should not address evidence that a party believes exceeds the proper scope of a sur-reply); *see also* TPG at 80-81 (discussing a motion to strike which requires prior authorization). The Board has “repeatedly stated” that filing a motion to exclude evidence as failing to comply with 37 C.F.R. § 42.23 is improper. *Palo Alto Networks, Inc. v. Finjan Inc.*, IPR2015-01979, Paper 62 at 66 (PTAB Mar. 15, 2017)(citing collection of cases).

**Second**, Petitioner’s Motion to Exclude does not argue that Patent Owner violated any of the Federal Rules of Evidence (*e.g.*, inadmissible due to relevance or hearsay). *See* TPG at 79; *see also* TPG at 8 (“Admissibility of evidence is

generally governed by the Federal Rules of Evidence). Petitioner thus fails to meet its burden.

**Third**, Patent Owner has continuously argued the value of its residential proxy service and, in the Sur-reply, directly responded to Petitioner's arguments in the Reply (*see* pages 24-26) regarding use of a residential IP address versus a commercial IP address. \$53.7 million in annual revenue of the residential proxy service (which uses residential IP addresses) is significant in and of itself. Patent Owner additionally recited the approximate annual revenue of the data center proxy service (which uses commercial IP addresses) for comparison.

**Fourth**, Petitioner has been aware of the annual revenue of Patent Owner's services at least because the annual revenue is public information disclosed in Reexam Control Nos. 90/014,624; 90/014,827; 90/014,652; and 90/014,816; each of which Petitioner has been aware of since at least April 21, 2022. Paper 1 at 9; *see also* EX. 1128 (showing awareness of papers filed in Reexam Control Nos. 90/014,624 and 90/014,827). Petitioner has also been coordinating closely with the petitioners in IPR2021-01492 and -01493 (*e.g.*, filing substantially identical papers post-institution). Petitioner has also been preparing to enter the U.S. market in competition with Patent Owner. Paper 16 at 3. Patent Owner respectfully submits that for at least these reasons, Petitioner has been aware that the annual revenue of Patent Owner's services is inconsistent with the argument that the use of

residential IP addresses has no value compared to the use of commercial IP addresses.

For at least the foregoing reasons, Petitioner's Motion should be denied. Additionally, Patent Owner notes that the Board need not decide Petitioner's Motion at this time given that consideration of the objected-to evidence may ultimately be unnecessary to resolve the patentability of the challenged claims, rendering the Motion moot. *See* TPG at 79-80.

Respectfully submitted,

Date: June 1, 2023

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**CERTIFICATE OF COMPLIANCE**

This paper consists of less than 15 pages and complies with the type-volume as mandated in 37 C.F.R. § 42.24. In preparing this certificate, counsel has relied on the word count of the word-processing system used to prepare the paper (Microsoft Word).

Respectfully submitted,

Date: June 1, 2023

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