

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SYMANTEC CORPORATION,
Petitioner,

v.

THE TRUSTEES OF COLUMBIA UNIVERSITY
IN THE CITY OF NEW YORK,
Patent Owner.

Case IPR2015-00372 (Patent 7,448,084 B1)
Case IPR2015-00374 (Patent 7,913,306 B2)
Case IPR2015-00378 (Patent 7,448,084 B1)

Before HOWARD B. BLANKENSHIP, BRYAN F. MOORE, and
ROBERT J. WEINSCHENK, *Administrative Patent Judges*.

WEINSCHENK, *Administrative Patent Judge*.

ORDER TO EXPUNGE¹
Conduct of the Proceeding
37 C.F.R. §§ 42.5, 42.7(a)

¹ We exercise our discretion to issue one identical order in each case using this caption style. Unless otherwise authorized, the parties are not permitted to use this style.

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I. INTRODUCTION

On September 25, 2015, Judges Blankenship, Moore, and Weinschenk held a telephone conference call with counsel for Symantec Corporation (“Petitioner”) and counsel for The Trustees of Columbia University in the City of New York (“Patent Owner”). This order summarizes statements made during the conference call.

II. ANALYSIS

Petitioner served objections to evidence submitted with the Patent Owner Response, and Patent Owner subsequently served and filed exhibits as supplemental evidence in response to Petitioner’s objections. Petitioner argued that Patent Owner’s supplemental evidence should have been served only, not filed, and thus should be expunged from the record of these proceedings. Patent Owner argued that Petitioner’s objections should have been filed, but were not, and thus were not timely.

Under 37 C.F.R. § 42.64(b)(1), once a trial has been instituted, any objection to evidence must be *filed* within five business days of service of the evidence to which the objection is directed. Petitioner was authorized to file the previously served objections to evidence submitted with the Patent Owner Response. However, if Petitioner files a motion to exclude based on any of those objections, Patent Owner reserves the right to argue that those objections were not filed timely. Under 37 C.F.R. § 42.64(b)(2), a party may respond to an objection to evidence by *servicing* supplemental evidence within ten business days of service of the objection. Patent Owner prematurely filed supplemental evidence before a motion to exclude, and thus the exhibits filed as supplemental evidence will be expunged from the

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record of these proceedings.

III. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Petitioner may file its previously served objections to evidence submitted with the Patent Owner Response, but Patent Owner reserves the right to argue that those objections were not filed timely;

FURTHER ORDERED that substitute Exhibits 2033 and 2042, and Exhibits 2051–2060, filed September 21, 2015, will be expunged from the record of IPR2015-00372; and

FURTHER ORDERED that substitute Exhibits 2033 and 2042, and Exhibits 2052–2055, 2057, 2058, and 2060, filed September 21, 2015, will be expunged from the record of IPR2015-00374.

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PETITIONER:

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Brian M. Hoffman
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Hong Zhong
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