

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS AMERICA, INC. and
SAMSUNG ELECTRONICS CO., LTD.,
Petitioner

v.

SMARTFLASH LLC,
Patent Owner

CBM2014-00192 (Patent 8,033,458B2)

PETITIONER'S NOTICE OF OBJECTIONS TO EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner, SAMSUNG ELECTRONICS AMERICA, INC. and SAMSUNG ELECTRONICS CO., LTD. (“Petitioner”), hereby submits its notice of objections to certain evidence that Patent Owner, SMARTFLASH LLC, submitted in connection with Patent Owner’s Response in CBM2014-00192.

Exhibits 2056 and 2057

Petitioner objects to Exhibits 2056 and 2057 (Deposition Transcripts of Dr. Jeffrey Bloom) on several grounds. Petitioner objects to relied-on portions enumerated below in Exhibits 2056 and 2057 on grounds of relevance (FRE 401 and 402), scope (FRE 611), and foundation (FRE 701).

The following chart lists objections to specific portions in Exhibits 2056 and 2057 and the corresponding grounds for the objections.

Objections to Portions in Exhibit 2056	
179:1-20	FRE 401 and 402: This portion is not relevant because any insinuated infringement ¹ by a third party company

¹ To the extent that Patent Owner requested discovery into alleged evidence of non-infringement and existence of non-infringing alternatives, the Board refused to authorize Patent Owner to file such motions to compel discovery. *See generally,*

	<p>unrelated to the CBM proceedings does not make a fact of consequence in determining the validity of the patent claims at issue here more or less probable than it would be without this portion.</p> <p>FRE 611(b): This portion is outside the scope of the direct examination because the Petitioner did not open the door to investigating the business practice of a third-party company.</p>
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Objections to Portions in Exhibit 2057	
193:17-194:8	<p>FRE 401 and 402: This portion is not relevant because any insinuated infringement² by a third-party company unrelated to the CBM proceedings does not make a fact of consequence in determining the validity of patent claims at issue here more or less probable than it would be without this portion.</p> <p>FRE 611(b): This portion is outside the scope of the direct examination because the Petitioner did not open the door to investigating the business practice of a third-party company.</p> <p>FRE 701: This portion is inadmissible</p>

Patent Owner List of Proposed Motions, Paper 12; Order-Conduct of the Proceedings, Paper 13.

² See FN1.

	<p>pursuant to FRE 701. Dr. Bloom has not been advanced as an expert with regard to subscription-based business practice of a third-party company. To the extent that no foundation has been laid with regard to his personal knowledge of such business practice, the content of this portion is improper lay witness opinion.</p>
195:5-16	<p>FRE 401 and 402: This portion is not relevant because any insinuated infringement³ by a third-party company unrelated to the CBM proceedings does not make a fact of consequence in determining the validity of patent claims at issue here more or less probable than it would be without this portion.</p> <p>FRE 611(b): This portion is outside the scope of the direct examination because the Petitioner did not open the door to investigating the business practice of a third-party company.</p> <p>FRE 701: This portion is inadmissible pursuant to FRE 701. Dr. Bloom has not been advanced as an expert with regard to subscription-based business practice of a third-party company. To the extent that no foundation has been laid with regard to his personal knowledge of such business practice, the content of this portion is improper lay witness opinion.</p>

³ See FN1.

For at least these reasons, Petitioner objects to portions of Exhibits 2056 and 2057. Petitioner further reserves the right to move to exclude these portions.

Respectfully submitted,

Date: June 8, 2015

/Thomas A. Rozylowicz/
Thomas A. Rozylowicz
Reg. No. 50,620

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