

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

**KYOCERA CORPORATION
MOTOROLA MOBILITY LLC
Petitioners**

v.

**SOFTVIEW LLC
Patent Owner**

**CASE IPR2013-00007
CASE IPR2013-00256
Patent 7,461,353.**

**PATENT OWNER'S NOTICE OF OBJECTIONS TO EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64**

The undersigned, on behalf of SoftView LLC ("Patent Owner"), hereby provides Notice to the Board that the objections made on the record herewith were served to Kyocera Corporation ("Kyocera") and Motorola Mobility LLC ("Motorola") (collectively "Petitioners") pursuant to 37 C.F.R. § 42.64. *See also* Trial Practice Guide, 77 Fed. Reg. 48756, 48767 (Aug. 14, 2012).

Respectfully submitted,

Dated: September 30, 2013

By: */Ben Yorks/*

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**PATENT OWNER'S OBJECTIONS TO EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64**

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.64(b)(1), the undersigned, on behalf of SoftView LLC ("Patent Owner"), hereby submits the following objections to Exhibits PX 1030-1049 submitted with Kyocera Corporation's ("Kyocera") and Motorola Mobility LLC's ("Motorola") (collectively "Petitioners") Consolidated Reply to Patent Owner's Response ("Reply") dated September 23, 2013. *See* IPR2013-00007, Paper No. 28 (and exhibits thereto). Pursuant to 37 C.F.R. § 42.62, Patent Owner's objections below apply the Federal Rules of Evidence ("F.R.E.").

II. OBJECTION TO EVIDENCE

A. OBJECTIONS TO EXHIBIT PX 1030 (REPLY DECLARATION OF JACK D. GRIMES) AND ANY REFERENCE TO/RELIANCE

Patent Owner hereby objects to Exhibit PX 1030, Reply Declaration of Jack D. Grimes, Ph.D., dated September 13, 2013 ("Grimes Reply Declaration").

Grounds for objection: 37 C.F.R. § 42.61 (Admissibility of Evidence), F.R.E. 402 (Relevance), F.R.E. 403 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons), 37 C.F.R. § 42.223 (Filing of Supplemental Evidence), F.R.E. 602 (Lack of Personal Knowledge), F.R.E. 801, 802 (Impermissible Hearsay), 37 C.F.R. § 42.23(b) (Outside Scope of Response and Petition), Office Patent Trial Practice Guide, part II, § I (77 Fed. Reg. 48,756, 48,767 (Aug. 14, 2012)), 42.104(b) (belated identification of challenge), F.R.E. 702, 703 (impermissible expert testimony).

1. Petitioner Belatedly Advances New Claim Construction Positions in Violation of 37 C.F.R. § 42.104

The USPTO Rules and Regulations require the Petitioner to set forth its claim construction positions in the Petition.

42.104. Content of petition.

In addition to the requirements of §§ 42.6, 42.8, 42.22, and 42.24, *the petition must set forth:*

...

(b) *Identification of challenge.* Provide a statement of the precise relief requested for each claim challenged. *The statement must identify the following:*

...

(3) *How the challenged claim is to be construed. . . .*

37 C.F.R. § 42.104(b)(3). (Emphasis added.)

According to the USPTO, a purpose of this requirement is to provide the Patent Owner an adequate opportunity to address Petitioner's arguments in its response. "The Office believes that the petitioner's claim construction requirement will improve the efficiency of the proceeding. As discussed previously, the petitioner's claim construction will help to provide sufficient notice to patent owner on the proposed grounds of unpatentability" Changes to Implement Inter Partes Review Proceedings, Post-Grant Review Proceedings, and Transitional Program for Covered Business Method, Patents, 77 Fed Reg. 48,680, 48,700 (August 14, 2012). Petitioners have failed to do so.

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