

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 SUPPLEMENTAL
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: October 22, 2013

By: */Ben Yorks/*

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**PATENT OWNER'S OBJECTIONS TO SUPPLEMENTAL
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 Revised Exhibit PX 1032, new Exhibit PX 1052 ("Supplemental Grimes Reply Declaration"), and new Exhibit 1053 ("Supplemental Lutz Declaration") all of which were submitted with Kyocera Corporation's ("Kyocera") and Motorola Mobility LLC's ("Motorola") (collectively "Petitioners") Notice of Filing of Supplemental Evidence ("Notice") dated October 15, 2013. *See* IPR2013-00007, Paper No. 35 (and exhibits thereto). Pursuant to 37 C.F.R. § 42.62, certain of Patent Owner's objections below apply the Federal Rules of Evidence ("F.R.E.").

II. OBJECTIONS TO EVIDENCE

A. OBJECTIONS TO EXHIBIT PX 1052 (SUPPLEMENTAL REPLY DECLARATION OF JACK D. GRIMES) AND ANY REFERENCE TO OR RELIANCE THEREON

Patent Owner hereby objects to Exhibit PX 1052, the Supplemental Reply Declaration of Jack D. Grimes, Ph.D., dated October 11, 2013 ("Supplemental 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. 702, 703 (Impermissible Expert Testimony), 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)), 37 C.F.R. § 42.104(b) (belated identification of challenge), 37 C.F.R. § 42.64(b) (improper supplementation of evidence), F.R.E. 702, 703 (impermissible expert testimony).

1. Petitioner's Supplemental Evidence Fails to Correct Objections under 37 C.F.R. § 42.64(b)(1)

On September 23, 2013, Petitioners filed their Consolidated Reply to Patent Owner's Response ("Reply"). With their Reply, Petitioners submitted a ninety (90) page Declaration by their expert, Dr. Grimes ("Grimes Reply Declaration"). On September 30, 2013, SoftView filed objections to the evidence submitted by Petitioners including objections to the Grimes Reply Declaration. *See* Paper No. 29.¹ At the request of SoftView, the Board conducted a conference call with the parties on October 3, 2013 to discuss, among other things, SoftView's request to file a motion to strike Petitioners' Reply and the Grimes Reply Declaration. During that call, Kyocera's counsel stated that Kyocera would consider, in response to SoftView's objections, redacting portions of the Grimes Reply Declaration and/or withdrawing certain exhibits objected to by SoftView.

Petitioners did not do so. Instead, on October 15, 2013, Petitioners submitted new and additional evidence, including a fifteen (15) page Supplemental

¹ SoftView preserves all of its objections to the Grimes Reply Declaration.

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