UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZYNGA, INC.

Petitioner

V.

PERSONALIZED MEDIA COMMUNICATIONS LLC

Patent Owner

Case No. IPR2013-00171

U.S. Patent No. 7,734,251

PATENT OWNER OBJECTIONS TO EVIDENCE AND OBJECTION TO PETITIONER'S REPLY

Pursuant to 37 C.F.R. §42.64, Patent Owner, Personalized Media Communications LLC ("Patent Owner"), hereby notices its objections to the January 24, 2014 submission by Petitioner of new evidence in its "Petitioner's Reply to Patent Owner's Response," (the "Reply"). Patent Owner files the objections to bring the impropriety of the Reply to the attention of the Patent Trial and Appeal Board, and to preserve Patent Owner's right to later file a motion to exclude, strike, or other suitable motion.

Patent Owner objects to the Reply because it relies on and attaches the following documents: (1) James Bessen and Michael J. Meurer, *The Direct Costs from NPE Disputes*, 99 Cornell L. Rev. (forthcoming 2014) (Exhibit 1015); and (2) Alexander M. Bell, *An Autopsy on Submarine Patents*, Departments of Economics and Computer Science, Brown University (April 2013) (Exhibit 1016); and (3) *Patent Assertion and U.S. Innovation*, Executive Office of the President (June 2013) (Exhibit 1017). Patent Owner objects to the Reply's reference to these exhibits on at least the following grounds:

- The exhibits are irrelevant (FRE 401);
- The exhibits are unduly prejudicial and confuse the issues (FRE 403);
- The exhibits exceed the scope allowed for reply evidence under Section I of the Office Patent Trial Practice Guide, which requires that reply evidence be responsive to the corresponding opposition and not

present new evidence that could have been presented earlier. *See* 77 Fed. Reg. 48756, 48767; see also 37C.F.R. § 42.23 (requiring that a reply may only respond to arguments raised in the corresponding opposition); and

- The Reply exceeds the permissible scope of a reply paper under 37 C.F.R. §42.23(b) ("A reply may only respond to arguments raised in the corresponding opposition or patent owner response.").

Patent Owner therefore requests that the Patent Trial and Appeal Board refuse to consider the Reply and the aforementioned exhibits in accordance with the guidance provided in the Office Patent Trial Practice Guide. Patent Owner further files this objection out of an abundance of caution to preserve its right to file, on or before DUE DATE 4 (March 17, 2014), a motion to exclude, and/or to seek authorization to file a motion to strike, or to take other appropriate action, as the facts may warrant.

Dated: January 31, 2014

Respectfully submitted,

By /Thomas J. Scott, Jr./
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the:

PATENT OWNER OBJECTIONS TO EVIDENCE AND OBJECTION TO PETITIONER'S REPLY

filed herewith was served on:

David B. Cochran at dcochran@jonesday.com
and
Joseph M. Sauer at jmsauer@jonesday.com

pursuant to 37 C.F.R. § 42.8(e)(1) and the consent found in Section VI.C of the Petition (Paper No. 2).

Dated: January 31, 2014 By: /Thomas J. Scott, Jr./