

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MACRONIX INTERNATIONAL CO., LTD., MACRONIX ASIA
LIMITED, MACRONIX (HONG KONG) CO., LTD. and MACRONIX
AMERICA, INC.
Petitioners

v.

SPANSION LLC
Patent Owner

Case : IPR2014-00103
U.S. Patent 6,369,416 B1

Before the Honorable DEBRA K. STEPHENS, JUSTIN T. ARBES, and,
RICHARD E. RICE, *Administrative Patent Judges*.

**PETITIONERS' FIRST SET OF OBJECTIONS TO PATENT OWNERS'
EXHIBITS**

Pursuant to 37 C.F.R. § 42.64(b)(1), the undersigned, on behalf of and acting
in a representative capacity for Petitioners Macronix International Co., Ltd.,
Macronix Asia Limited, Macronix (Hong Kong) Co., Ltd. And Macronix America,
Inc. ("Petitioners"), hereby submit the following objections to Patent Owner
Spansion LLC's ("Patent Owner") Exhibit EX2003, Exhibit EX2006, Exhibit

EX2010, Exhibit EX2011, Exhibit EX2012, Exhibit EX2013, Exhibit EX2015 and any reference to/reliance on the foregoing. As required by 37 C.F.R § 42.62, Petitioners' objections below apply the Federal Rules of Evidence ("F.R.E.").

I. Objections to Exhibit EX2003 and Any Reference to/Reliance Thereon

Evidence objected to: Exhibit EX2003, titled "Declaration of Shukri Sourì, Ph.D.," including at least ¶¶ 20-127.

Grounds for objection: F.R.E. 702 ("Testimony by Expert Witnesses"); F.R.E. 403 ("Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons").

The witness providing the declaration attached as Exhibit EX2003 provides insufficient underlying facts or data upon which the opinions contained in Exhibit EX2003 could legitimately be based, in violation of F.R.E. 702. Accordingly, permitting any reliance on this purported expert testimony in the Petition or other submissions of Petitioners would be misleading and unfairly prejudicial to Patent Owner (F.R.E. 403).

II. Objections to Exhibit EX2006 and Any Reference to/Reliance Thereon

Evidence objected to: Exhibit EX2006, and any reference to or reliance thereon.

Grounds for objection: F.R.E. 106 (“Remainder of or Related Writings or Recorded Statements”); F.R.E. 901 (“Authenticating or Identifying Evidence”); F.R.E. 403 (“Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons”).

While Petitioners attach a purported “Excerpt of Stephen A. Campbell, The Science and Engineering of Microelectronic Fabrication, (Oxford University Press, Oxford New York, 1996)” as EX2006, Petitioners’ citations to that Exhibit in Patent Owner’s Response (on pages 6-7, 27, 50 and 60 and) and in the Declaration of Shukri Souri (in ¶¶ 28-29, 58, 102 and 126) omit citations to portions “that in fairness ought to be considered at the same time” (F.R.E. 106; see also Fed. R. Civ. P. 32(a)(6)).

Furthermore, Patent Owner fails to provide for Exhibit EX2006 the authentication required by F.R.E. 901. While Patent Owner’s exhibit list refers to Exhibit EX2006 as “Excerpt of Stephen A. Campbell, The Science and Engineering of Microelectronic Fabrication, (Oxford University Press, Oxford New York, 1996),” Patent Owner has not presented sufficient evidence concerning the origin of this document or confirming that it is what it is labeled to be. Patent Owner thus improperly cite to Exhibit EX2006 without providing the proper authenticating evidence sufficient to support a finding that the item is what Patent Owner claim it is, in violation of F.R.E. 901.

In addition, to the extent the Patent Owner's Response or the Declaration of Shukri Sourì, or any other submission of Patent Owner purports to refer to or rely on Exhibit EX2006, Petitioners object to such reference to/reliance on evidence that is not properly authenticated (F.R.E. 901) and/or omit citations to portions "that in fairness ought to be considered at the same time" (F.R.E. 106), and as misleading and unfairly prejudicial (F.R.E. 403).

III. Objections to Exhibit EX2006 and Any Reference to/Reliance Thereon

Evidence objected to: Exhibit EX2006, and any reference to or reliance thereon.

Grounds for objection: F.R.E. 106 ("Remainder of or Related Writings or Recorded Statements"); F.R.E. 901 ("Authenticating or Identifying Evidence"); F.R.E. 403 ("Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons").

While Patent Owner attaches a purported "Excerpt of Stephen A. Campbell, The Science and Engineering of Microelectronic Fabrication, (Oxford University Press, Oxford New York, 1996)" as EX2006, Patent Owner's citations to that Exhibit in Patent Owner's Response (on pages 6-7, 27, 50 and 60) and in the Declaration of Shukri Sourì (in ¶¶ 28-29, 58, 102 and 126) omit citations to

portions “that in fairness ought to be considered at the same time” (F.R.E. 106; see also Fed. R. Civ. P. 32(a)(6)).

Furthermore, Patent Owner fails to provide the authentication for Exhibit EX2006 required by F.R.E. 901. While Patent Owner’s exhibit list refers to Exhibit EX2006 as “Excerpt of Stephen A. Campbell, *The Science and Engineering of Microelectronic Fabrication*, (Oxford University Press, Oxford New York, 1996),” Patent Owner has not presented sufficient evidence concerning the origin of this document or confirming that it is what it is labeled to be. Patent Owner thus improperly cites to Exhibit EX2006 without providing the proper authenticating evidence sufficient to support a finding that the item is what Patent Owner claim it is, in violation of F.R.E. 901.

In addition, to the extent the Patent Owner’s Response or the Declaration of Shukri Soury, or any other submission of Patent Owner purports to refer to or rely on Exhibit EX2006, Petitioners object to such reference to/reliance on evidence that is not properly authenticated (F.R.E. 901) and/or omit citations to portions “that in fairness ought to be considered at the same time” (F.R.E. 106), and as misleading and unfairly prejudicial (F.R.E. 403).

IV. Objections to Exhibit EX2010 and Any Reference to/Reliance Thereon

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