

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Apple Inc., Google Inc. and Motorola Mobility LLC,

Petitioners,

v.

Arendi S.A.R.L.,

Patent Owner.

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Case No. IPR2014-00208

Patent No. 7,917,843

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PATENT OWNER ARENDI S.A.R.L.'S

REPLY TO PETITIONERS' OPPOSITION TO PATENT OWNER'S  
MOTION TO EXCLUDE EVIDENCE PURSUANT TO 37 C.F.R. § 42.64

On December 30, 2014, Patent Owner Arendi S.A.R.L. (“Arendi” or “Patent Owner”) filed a Motion to Exclude Evidence under 37 C.F.R. §42.64(c) [herein, the “Motion”], and on January 13, 2015, Petitioners filed Petitioners’ Opposition to Patent Owner’s Motion to Exclude Evidence [herein, the “Petitioners’ Opposition”]. The Patent Owner stands by its arguments as set forth in its motion to exclude and adds the following comments in reply to Petitioners.

The Petitioners are egregiously mistaken to argue relevance of the Menascé deposition on the basis of discussions of Domini and Hachamovitch. These references are not at issue in the present IPR. The prior art reference at issue, Pandit [US 5,859,636], was never mentioned during the deposition. Indeed, other than to identify Dr. Menascé as the declarant who filed the declaration with respect to US 7,917,843, the claims of the ’843 patent being challenged in the present IPR were never discussed in the deposition. The deposition needs to be excluded as being totally irrelevant.

Moreover, 37 C.F.R. §42.123 controls the introduction of new evidence into an inter partes review. Petitioners should not be permitted to introduce late evidence through the back door by becoming a proponent of a deposition transcript in defiance of §42.123. Any testimony of the expert witness could have been included in his declaration and filed with the Petition. The requirements of 37

C.F.R. §42.123 should control regardless of whether Petitioners present late testimony in a supplemental declaration or have its expert expound in a deposition.

The transcript entirely lacks relevance to the present IPR and should be excluded under the rules of evidence and 37 C.F.R. §42.123.

Date: January 20, 2015

Respectfully submitted,

/Robert M. Asher, #30,445/

Robert M. Asher  
Registration No. 30,445  
Bruce D. Sunstein  
Registration No. 27,234  
John J. Stickevers  
Registration No. 39,387  
Dorothy Wu  
Registration No. 69,535  
Sunstein Kann Murphy & Timbers LLP  
125 Summer Street  
Boston, MA 02110  
Tel: (617) 443-9292  
Fax: (617) 443-0004

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## CERTIFICATE OF SERVICE

It is certified that on January 20, 2015, copies of the PATENT OWNER ARENDI S.A.R.L.'S REPLY TO PETITIONERS' OPPOSITION TO PATENT OWNER'S MOTION TO EXCLUDE EVIDENCE PURSUANT TO 37 C.F.R. § 42.64 have been served on Petitioners as provided in 37 C.F.R. § 42.6(e) via electronic mail transmission addressed to the persons at the following addresses:

<p>LEAD COUNSEL FOR PETITIONER APPLE INC.</p> <p>DAVID L. FEHRMAN <a href="mailto:dfehrman@mofo.com">dfehrman@mofo.com</a> Registration No. 28,600 MORRISON &amp; FOERSTER LLP 707 Wilshire Blvd., Suite 6000 Los Angeles, CA 90017-3543 Tel: (213) 892-5601 Fax: (213) 892-5454</p>	<p>BACK-UP COUNSEL FOR PETITIONER APPLE INC.</p> <p>MEHRAN ARJOMAND <a href="mailto:marjomand@mofo.com">marjomand@mofo.com</a> Registration No. 48,231 MORRISON &amp; FOERSTER LLP 707 Wilshire Blvd., Suite 6000 Los Angeles, CA 90017-3543 Tel: (213) 892-5630 Fax: (213) 892-5454</p>
<p>LEAD COUNSEL FOR PETITIONERS MOTOROLA MOBILITY LLC and GOOGLE INC.</p> <p>MATTHEW A. SMITH <a href="mailto:smith@turnerboyd.com">smith@turnerboyd.com</a> Registration No. 49,003 TURNER BOYD LLP 2570 W. El Camino Real, Suite 380 Mountain View, CA 94040 Tel: (650) 265-6109 Fax: (650) 521-5931</p>	<p>BACK-UP COUNSEL FOR PETITIONERS MOTOROLA MOBILITY LLC and GOOGLE INC.</p> <p>ZHUANJIA GU <a href="mailto:gu@turnerboyd.com">gu@turnerboyd.com</a> Registration No. 51,758 TURNER BOYD LLP 2570 W. El Camino Real, Suite 380 Mountain View, CA 94040 Tel: (650) 265-6109 Fax: (650) 521-5931</p> <p>JULIE S. TURNER <a href="mailto:turner@turnerboyd.com">turner@turnerboyd.com</a> TURNER BOYD LLP 2570 W. El Camino Real, Suite 380 Mountain View, CA 94040 Tel: (650) 265-6109 Fax: (650) 521-5931</p>

	ROBERT J. KENT <a href="mailto:kent@turnerboyd.com">kent@turnerboyd.com</a> TURNER BOYD LLP 2570 W. El Camino Real, Suite 380 Mountain View, CA 94040 Tel: (650) 265-6109 Fax: (650) 521-5931
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Date: January 20, 2015

/Robert M. Asher, #30,445/

Robert M. Asher  
Registration No. 30,445  
Sunstein Kann Murphy & Timbers LLP  
125 Summer Street  
Boston, MA 02110  
Tel: (617) 443-9292  
Fax: (617) 443-0004