

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TRW AUTOMOTIVE U.S. LLC,
Petitioner

v.

MAGNA ELECTRONICS INC.,
Patent Owner

Case IPR2015-00436¹
Patent 8,599,001 B2

**PATENT OWNER'S OBJECTIONS TO EVIDENCE PRESENTED
WITH PETITIONERS' REPLY**

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

¹ Cases IPR2015-00437, IPR2015-00438, and IPR2015-00439 have been consolidated with this proceeding.

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Magna Electronics, Inc. (“Magna”) objects to Exhibit Nos. 1013, 1015-1034, 1037-1065, and 1067-1071, which accompany Petitioners’ Reply (Paper No. 28) as filed January 19, 2016.

Magna timely files these objections within five business days² of Petitioners’ Reply, and hereby provides notice that Magna may move to exclude under 37 C.F.R. § 42.64(c).

FRE 402 and FRE 403 (Relevance)

Magna objects to Exhibits 1013, 1015-1034, 1037-1065, and 1067-1071 as irrelevant. None of the purported facts are of consequence to the issues instituted for trial. In addition, even if relevant, the probative value of the evidence is outweighed by its tendency to confuse the issues, cause undue delay, and waste the time of the Board and Magna. For example, Ex. 1018, 1019, 1021-1026, 1029-1034, 1037-1040, 1042, 1046, 1056, and 1060-1064 do not relate to the state of the

² The USPTO was closed on Monday, January 25, 2016 and Tuesday, January 26, 2016. The USPTO announced it considers Monday, January 25, 2016 and Tuesday, January 26, 2016, to be a “Federal holiday within the District of Columbia” under 35 U.S.C. § 21 and 37 C.F.R. §§ 1.6, 1.7, 1.9, 2.2(d), 2.195, and 2.196. Accordingly, the due date for the objections is January 28, 2016.

art or knowledge of a POSA regarding passive-pixel CMOS image sensors, vehicle vision systems, or any fact of consequence. For another example, Ex. 1020 has been advanced as evidence of the state of the art, but it lacks any publication data. In particular, the Kozlowski declaration (Ex. 1071) is not relevant to any ground upon which trial was instituted. The declaration includes sections on terminologies, background, and erroneous analysis that have no bearing on whether the challenged claims are patentable in light of the grounds of institution in this proceeding. *See, e.g.*, ¶¶ 53-100.

FRE 702 (Improper Expert Testimony)

Magna objects to Ex. 1071 as improper expert testimony. The testimony is based on insufficient facts or data. *See, e.g.*, ¶¶ 263-265. The testimony is not the product of reliable principles and methods. *See, e.g.*, ¶¶ 249-256. And the expert has not reliably applied the principles and methods to the facts of the case. *See, e.g.*, ¶¶ 266-290.

FRE 802 (Hearsay)

Magna objects to Exhibits 1013, 1015-1019, 1021-1026, 1030-1034, 1036-1065, and 1067-1070 as inadmissible hearsay. Each cited statement is offered “for its truth” because it is cited in the Petitioner’s Reply in support of the characterization of the state of the art at the time of the ’001 Patent or other issues.

Because Petitioner has not identified any applicable hearsay exception for the statements in the reference, the reference constitute inadmissible hearsay. To the extent the reference quotes other references, such statements, if cited, constitute hearsay within hearsay.

FRE 901 (Authentication)

Magna objects to Exhibits 1013, 1015-1017, 1020-1023, 1027, 1028, 1044, 1046, 1048-1051, 1054-1065, 1069, and 1070 as lacking proper authentication. Petitioner has failed to produce any evidence to support a finding that the reference is what the Petitioner claims it is.

CONCLUSION

Exhibits 1013, 1015-1034, 1037-1065, and 1067-1071 are objectionable for the reasons detailed above. In view of Magna's Objections herein, Magna may file one or more motions to exclude this portion of the exhibit under 37 C.F.R. § 42.64(c).

Respectfully submitted,
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

/Jason D. Eisenberg/

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