

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD., SAMSUNG ELECTRONICS AMERICA,
INC., and APPLE INC.,
Petitioners,

v.

ROSETTA-WIRELESS CORPORATION,
Patent Owner.

Case IPR2016-00622¹
Patent No. 7,149,511 B1

Before the Honorable JUSTIN T. ARBES, PATRICK R. SCANLON, and JOHN A. HUDALLA, *Administrative Patent Judges*.

**PETITIONERS' OBJECTIONS TO EVIDENCE SUBMITTED WITH
PATENT OWNER'S PRELIMINARY RESPONSES**

Pursuant to 37 C.F.R. § 42.64(b)(1), the undersigned, on behalf of and acting in a representative capacity for Petitioners Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Apple Inc. ("Petitioners"), hereby submit the following objections to Patent Owner Rosetta-Wireless Corporation's ("Patent Owner") Exhibits as indicated below, and any reference thereto/reliance thereon, without limitation. Petitioners' objections below apply the Federal Rules of Evidence

¹ Case IPR2016-00616 has been consolidated with this proceeding.

(“F.R.E.”) as required by 37 C.F.R § 42.62.

These objections address evidentiary deficiencies in the new material served by Patent Owner on May 24 and May 25, 2016.

The following objections apply to the Exhibits indicated below as they are actually presented by Patent Owner, in the context of Patent Owner’s May 24 and May 25, 2016 Preliminary Responses (Paper 8 and IPR2016-00616, Paper 7, respectively), and in light of Patent Owner’s updated exhibit list filed August 25, 2016 (Paper 16), and not in the context of any other substantive argument on the merits of the instituted grounds in this proceeding. Petitioners expressly object to any other purported use of these Exhibits, including as substantive evidence in this proceeding, which would be untimely and improper under the applicable rules, and Petitioners expressly assert, reserve, and do not waive any other objections that would be applicable in such a context.

I. Objections to Exhibits 2002-2013 And Any Reference to/Reliance Thereon

Grounds for objection: F.R.E. 901 (“Authenticating or Identifying Evidence”); F.R.E. 1002 (“Requirement of the Original”); F.R.E. 1003 (“Admissibility of Duplicates”); F.R.E. 801, 802 (Impermissible Hearsay), 805 (Hearsay within Hearsay); F.R.E. 403 (“Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons”); and 37 C.F.R. § 42.61 (“Admissibility”).

Petitioners object to the use of Exhibits 2002-2013 under F.R.E. 901, 1002, 1003, and 37 C.F.R. § 42.61 because Patent Owner fails to provide the authentication

required for these documents, and the Exhibits are not self-authenticating under F.R.E. 902.

Petitioners further object to Exhibits 2002-2013 as impermissible hearsay under F.R.E. 801 and 802, and 805, to the extent to which the out of court statements therein, or the out of court statements referenced therein, are offered for the truth of the matters asserted and constitute impermissible hearsay for which Patent Owner has not demonstrated any exception or exclusion to the rule against hearsay (F.R.E. 801, 802, 805).

Accordingly, permitting reliance on these documents in Patent Owner's Preliminary Response or other submissions of Patent Owner would be misleading and unfairly prejudicial to Petitioners (F.R.E. 403).

Dated: September 6, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing PETITIONERS' OBJECTIONS TO EVIDENCE SUBMITTED WITH PATENT OWNER'S PRELIMINARY RESPONSES was served on September 6, 2016 in its entirety by causing the aforementioned document to be electronically mailed, pursuant to the parties' agreement, to the following attorneys of record for the Patent Owner listed below:

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