

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

ROSETTA-WIRELESS CORPORATION,  
Patent Owner.

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Case IPR2016-00622<sup>1</sup>  
Patent No. 7,149,511 B1

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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 RESPONSE**

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

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<sup>1</sup> 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 November 28, 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 November 28 Patent Owner Response (Paper 28), 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 2018-2021 and 2028-2029 And Any Reference to/Reliance Thereon**

Grounds for objection: 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”).

Petitioners object to the use of Exhibits 2018-2021 and 2028-2029 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 Response or other submissions of Patent Owner would be misleading and unfairly prejudicial to Petitioners (F.R.E. 403).

## **II. Objections to Exhibit 2026 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. 403 ("Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons").

Petitioners object to the use of Exhibit 2026 under F.R.E. 901, 1002, and 1003. Exhibit 2026 is illegible/cut-off and, thus, the document is not admissible to the same extent as the original (*e.g.*, F.R.E. 901, 1002, 1003).

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

## **III. Objections to Exhibit 2017 And Any Reference to/Reliance Thereon**

Grounds for objection: F.R.E. 403 ("Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons"); F.R.E. 602 ("Need for Personal Knowledge"); F.R.E. 701 ("Opinion Testimony by Lay Witnesses"); F.R.E. 801, 802 (Impermissible Hearsay), 805 (Hearsay within Hearsay).

Petitioners object to the use of Exhibit 2017 under F.R.E. 602 to the extent

evidence has not been introduced sufficient to support a finding that the declarant has personal knowledge of the matters set forth in Exhibit 2017.

Petitioners further object to the use of Exhibit 2017 under F.R.E. 701 to the extent the declarant is not being offered as an expert witness, and to the extent the matters in Exhibit 2017 are: (a) not rationally based on the declarant's perception; (b) not helpful to clearly understanding the declarant's testimony or to determining a fact in issue; or (c) based on scientific, technical, or other specialized knowledge within the scope of Rule 702.

Petitioners further object to the use of Exhibit 2017 as containing impermissible hearsay under F.R.E. 801 and 802, and 805, to the extent to which 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 this document in Patent Owner's Response or other submissions of Patent Owner would be misleading and unfairly prejudicial to Petitioners (F.R.E. 403).

Dated: December 5, 2016

Respectfully submitted,

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Case IPR2016-00622

Patent No. 7,149,511

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