

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.

Petitioner

v.

PERSONALIZED MEDIA COMMUNICATIONS LLC

Patent Owner

Case No.: IPR2016-00754

Patent No.: 8,559,635

**PATENT OWNER'S OBJECTIONS TO EVIDENCE SUBMITTED BY THE
PETITIONER WITH ITS OPPOSITION TO THE MOTION TO AMEND**

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

Patent Owner Personalized Media Communications LLC (“PMC”) hereby objects pursuant to 37 C.F.R. § 42.64(b)(1) and the Federal Rules of Evidence (“FRE”) to the admissibility of certain purported evidence served by Petitioner Apple Inc. on March 13, 2017 in connection with its Petitioner’s Opposition to Patent Owner’s Contingent Motion to Amend. The exhibits objected to, and grounds for PMC’s objections, are listed below. PMC also objects to Petitioner’s reliance on or citations to any objected evidence in its papers.

PMC objects to the Petitioner’s exhibits as follows:

Exhibit	Basis of Objection
1046	FRE 401-403 (Relevance, No probative value) – This exhibit is irrelevant as it was allegedly published in 1986 and, therefore, cannot be informative to what the person of ordinary skill in the art would have known by the relevant invention date of November 3, 1981.
1047	FRE 401-403 (Relevance, No probative value) – This exhibit is irrelevant as it was allegedly published in 1985 and, therefore, cannot be informative to what the person of ordinary skill in the art would have known by the relevant invention date of November 3, 1981.

1048	FRE 401-403 (Relevance, No probative value) – This exhibit is irrelevant as it was allegedly published in 1983 and, therefore, cannot be informative to what the person of ordinary skill in the art would have known by the relevant invention date of November 3, 1981.
1051	FRE 401-403 (Relevance, No probative value) – This exhibit is irrelevant as it was allegedly published in 1986 and, therefore, cannot be informative to what the person of ordinary skill in the art would have known by the relevant invention date of November 3, 1981.
1055	FRE 401-403 (Relevance, No probative value) – PMC objects to this exhibit to the extent it includes or relies on irrelevant or inadmissible information and to the extent that it includes or relies on information the probative value of which is substantially outweighed by the danger of unfair prejudice, wasting time, or needlessly presenting cumulative evidence.

In addition to the above objections, PMC objects to specific paragraphs in Mr. Wechselberger's Declaration in Support of Petitioner's Opposition to the Motion to Amend (Ex. 1055) as set forth below:

Paragraph(s)	Basis of Objection
27-28	Fed. R. Evid. 702/703 (Bases/Reliability of an Expert's Opinion Testimony); Fed. R. Evid. 705 and 37 C.F.R. § 42.65 (Failure to Disclose Facts or Underlying Data).
30	Fed. R. Evid. 702/703 (Bases/Reliability of an Expert's Opinion Testimony); Fed. R. Evid. 705 and 37 C.F.R. § 42.65 (Failure to Disclose Facts or Underlying Data). Attempting to construe 'a transmission' without support.
31-32	Fed. R. Evid. 702/703 (Bases/Reliability of an Expert's Opinion Testimony); Fed. R. Evid. 705 and 37 C.F.R. § 42.65 (Failure to Disclose Facts or Underlying Data). Attempting to construe the term 'processor' more narrowly than the Board's prior construction.
39-40	Fed. R. Evid. 702/703 (Bases/Reliability of an Expert's Opinion Testimony); Fed. R. Evid. 705 and 37 C.F.R. § 42.65 (Failure to Disclose Facts or Underlying Data). Conclusory statements about Campbell and Guillou capable of revising operating code without

	support from the references.
44	Fed. R. Evid. 702/703 (Bases/Reliability of an Expert's Opinion Testimony); Fed. R. Evid. 705 and 37 C.F.R. § 42.65 (Failure to Disclose Facts or Underlying Data). Conclusory statements about the presence or absence of any non-digital information in the upstream link.
50-51	Fed. R. Evid. 702/703 (Bases/Reliability of an Expert's Opinion Testimony); Fed. R. Evid. 705 and 37 C.F.R. § 42.65 (Failure to Disclose Facts or Underlying Data). Attempts to construe 'information particular to a customer' without support.
57-58	Fed. R. Evid. 702/703 (Bases/Reliability of an Expert's Opinion Testimony); Fed. R. Evid. 705 and 37 C.F.R. § 42.65 (Failure to Disclose Facts or Underlying Data). Attempts to construe 'unique identification codes' without support. Conclusory statements about the operation of Campbell's upstream system.
60	Fed. R. Evid. 702/703 (Bases/Reliability of an Expert's Opinion Testimony); Fed. R. Evid. 705 and 37 C.F.R. § 42.65 (Failure to Disclose Facts or Underlying Data). This reference does not disclose a query, but rather "the subscriber interacts through his keyboard and a "tree search" to obtain the information he desires."

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