

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.

Petitioner

v.

PERSONALIZED MEDIA COMMUNICATIONS LLC

Patent Owner

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Case No. IPR2016-00755

U.S. Patent No. 8,191,091

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

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**Mail Stop PATENT BOARD**

Patent Trial and Appeal Board

United States Patent and Trademark Office

P.O. Box 1450

Alexandria, VA 22313-1450

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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:

<b>Exhibit</b>	<b>Basis of Objection</b>
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.
1057	FRE 401-403 (Relevance, No probative value) – This exhibit is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this proceeding.
1058	FRE 401-403 (Relevance, No probative value) – This exhibit is

	<p>irrelevant and its probative value is substantially outweighed by the danger of wasting time in this proceeding. This exhibit was allegedly published in 1988 and, therefore, bears no relevance to what the person of ordinary skill in the art would have known by the relevant date. Furthermore, this exhibit at best purports to reflect a layperson's understanding of "processor" rather than what a person of ordinary skill in the art would understand.</p> <p>Therefore, Exhibit 1057 should be excluded.</p>
1059	<p>FRE 401-403 (Relevance, No probative value) – This exhibit is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this proceeding. This exhibit was allegedly published in 1979 and, therefore, bears no relevance to what the person of ordinary skill in the art would have known by the relevant date. Furthermore, this exhibit at best purports to reflect a layperson's understanding of "processor" rather than what a person of ordinary skill in the art would understand. Therefore, Exhibit 1059 should be excluded.</p>
1062	<p>FRE 401-403 (Relevance, No probative value) – This exhibit is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this proceeding.</p>

1063	FRE 401-403 (Relevance, No probative value) – This exhibit is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this proceeding.
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In addition to the above objections regarding Mr. Wechselberger’s Reply Declaration (Ex. 1055), PMC further objects to specific paragraphs, as set forth below:

<b>Paragraph(s)</b>	<b>Basis of Objection</b>
4, 6	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).
9-12	37 C.F.R. § 42.23(b); Rules of Practice for Trials Before the Patent Trial and Appeal Board and Judicial Review of Patent Trial and Appeal Board Decisions; Final Rule, 77 Fed. Reg. 48612, 48620 (Aug. 14, 2012)  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).
36	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

	<p>Disclose Facts or Underlying Data).</p> <p>Construes “central processing unit” without support. Equates the un-construed “central processing unit” to the term “processor”, which has been construed by the Board. States, without support, inherency arguments of what a “central processing unit” would interact with, and not stated by the instant reference.</p>
57	<p>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).</p>
60-61	<p>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).</p> <p>Contradicts the reference’s explicit teachings. Seth-Smith discloses, “Conventional communications facilities such as the telephone system or the mails are suited for this function, as indicated schematically at 8. <u>In this way, no uplink facility at the user's station need be provided.</u>” (Ex. 1064 at 10:24-27, emphasis added).</p>
72	<p>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</p>

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