

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

CALIFORNIA INSTITUTE OF TECHNOLOGY,
Patent Owner.

Case IPR2017-00210
Patent 7,116,710

PATENT OWNER'S NOTICE OF OBJECTION TO EVIDENCE

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner California Institute of Technology (“Caltech”), submits the following objections to Petitioner Apple Inc.’s (“Petitioner”) Exhibits 1002, 1008, 1012, 1013, and 1015. As required by 37 C.F.R. § 42.62, Patent Owner’s objections below apply the Federal Rules of Evidence (“F.R.E.”).

II. OBJECTIONS

A. Objections to Ex. 1002 and any Reference to/Reliance Thereon

Evidence objected to: Ex. 1002, “Frey, B.J. and MacKay, D.J.C., ‘Irregular Turbocodes.’”

Grounds for Objection: F.R.E. 106 (Remainder of or Related Writings or Recorded Statements); F.R.E. 801, 802 (Impermissible Hearsay); F.R.E. 901 (Authenticating and Identifying Evidence); F.R.E. 1002, 1003 (Admissibility of Duplicates).

Ex. 1002 is purportedly an excerpt of the Proceedings of the Thirty-Seventh Annual Allerton Conference on Communication, Control and Computing and, as such, it is incomplete and omits parts of the record “that in fairness ought to be considered at the same time.” In addition, the exhibit represents impermissible hearsay, including but not limited to aspects of the document relied upon by Petitioner as establishing a date of public accessibility. Moreover, the exhibit has

not been authenticated. Finally, the exhibit is not the original writing and “the circumstances make it unfair to admit the duplicate,” including illegibility of aspects of the document relied upon by Petitioner as establishing a date of public accessibility.

B. Objections to Ex. 1008 and any Reference to/Reliance Thereon

Evidence objected to: Ex. 1008, “Berrou et al., ‘Near Shannon Limit Error-Correcting Coding and Decoding: Turbo Codes.’”

Grounds for Objection: F.R.E. 401 (Test for Relevant Evidence); F.R.E. 402 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons).

Ex. 1008 is not cited in the petition that initiated this proceeding. As such, this exhibit is not relevant to the instituted ground of review or any other aspect of this proceeding as it has no tendency to make a fact more or less probable than it would be without the evidence. Moreover, Ex. 1008 is additionally not relevant to the instituted ground because any asserted facts to which the exhibit relates are of no consequence in determining this proceeding. Further, to the extent it is deemed relevant admission of the exhibit would be unduly prejudicial, misleading, and a waste of time in view of the fact that it is not cited in the petition.

C. Objections to Ex. 1012 and any Reference to/Reliance Thereon

Evidence objected to: Ex. 1012, “Declaration of Robin Fradenburgh.”

Grounds for Objection: F.R.E. 801, 802 (Impermissible Hearsay).

Ex. 1012 is a declaration prepared for and submitted in another proceeding in which the witness was not made available for cross-examination. Ms. Fradenburgh is not a witness in this proceeding. As such, the exhibit represents impermissible hearsay.

D. Objections to Ex. 1013 and any Reference to/Reliance Thereon

Evidence objected to: Ex. 1013, “Frey, B.J. and MacKay, D.J.C., ‘Irregular Turbo-Like Codes.’”

Grounds for Objection: F.R.E. 401 (Test for Relevant Evidence); F.R.E. 402 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons).

Ex. 1013 is not cited in the petition that initiated this proceeding. As such, this exhibit is not relevant to the instituted ground of review or any other aspect of this proceeding as it has no tendency to make a fact more or less probable than it would be without the evidence. Moreover, Ex. 1013 is additionally not relevant to the instituted ground because any asserted facts to which the exhibit relates are of no consequence in determining this proceeding. Further, to the extent it is deemed relevant admission of the exhibit would be unduly prejudicial, misleading, and a waste of time in view of the fact that it is not cited in the petition.

E. Objections to Ex. 1015 and any Reference to/Reliance Thereon

Evidence objected to: Ex. 1015, “Table of Contents of Proceedings of the 37th Allerton Conference on Communication, Control and Computing.”

Grounds for Objection: F.R.E. 106 (Remainder of or Related Writings or Recorded Statements); F.R.E. 801, 802 (Impermissible Hearsay); F.R.E. 901 (Authenticating and Identifying Evidence); F.R.E. 1002, 1003 (Admissibility of Duplicates).

Ex. 1015 is purportedly an excerpt of the Proceedings of the Thirty-Seventh Annual Allerton Conference on Communication, Control and Computing and, as such, it is incomplete and omits parts of the record “that in fairness ought to be considered at the same time.” In addition, the exhibit represents impermissible hearsay, including but not limited to aspects of the document relied upon by Petitioner as establishing a date of public accessibility. Moreover, the exhibit has not been authenticated. Finally, the exhibit is not the original writing and “the circumstances make it unfair to admit the duplicate,” including illegibility of aspects of the document relied upon by Petitioner as establishing a date of public accessibility.

III. CONCLUSION

This proceeding was instituted on June 30, 2017. These objections are made within ten business days of institution.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.