Paper No. _____ Filed: February 14, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

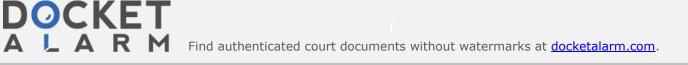
APPLE INC., Petitioner,

v.

CALIFORNIA INSTITUTE OF TECHNOLOGY, Patent Owner.

> Case IPR2017-00219 Patent 7,116,710

PATENT OWNER'S THIRD 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 1244-1251, 1253, 1255, 1257-1262, 1264-1265, 1267, and 1268. 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**

Caltech objects to Ex. 1244, "Tanner Graph for Code Described by Fig. 2 of U.S. Patent No. 7,116,710"; Ex. 1245, "Block Diagram of Accumulator"; Ex. 1246, "Tanner Graph for Code Described by Divsalar"; Ex. 1247, "Tanner Graph for Code Described by Luby98 Code 14"; Ex. 1248, "Tanner Graph for Code Described by Ping"; Ex. 1249, "Tanner Graph for Code Described by MacKay Profile 93y"; Ex. 1253, "Confidential IRAsimu.cpp with metadata"; Ex. 1255, "Confidential Excerpts from the Deposition of Dr. Hui Jin (Case No. 16-cv-3714)"; Ex. 1257, "Tanner Graph for Code Described by Divsalar (q=5)"; Ex. 1258, "Tanner Graph for IRA Code"; Ex. 1259, "Systematic Version of Divsalar Figure 3"; Ex. 1260, "Divsalar Figure 3 and Frey Figure 1"; Ex. 1261, "D.Divsalar, S. Dolinar, J. Thorpe, and C. Jones, 'Constructing LDPC Codes from Simple Loop-Free Encoding Modules,' IEEE International Conference on Communications, Seoul, South Korea, pp. 658-662, August, 2005"; Ex. 1262,

1

"Transcript of Deposition of Dr. Michael Mitzenmacher"; Ex. 1264, "Transcript of Deposition of Dr. Dariush Divsalar"; Ex. 1265, "Declaration of Dr. Brendan Frey"; Ex. 1268, "Simulation of Regular and Irregular Divsalar Codes".

Grounds for Objection: F.R.E. 401 (Test for Relevant Evidence); F.R.E. 402 (General Admissibility of Relevant Evidence); F.R.E. 403 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons)

Exhibits 1244, 1245, 1248, 1249, 1253, 1255, 1259, and 1260 are not cited in the petition that initiated this proceeding or Petitioner's reply. As such, these exhibits are not relevant to the instituted ground of review or any other aspect of this proceeding as they have no tendency to make a fact more or less probable than it would be without the evidence. Further, to the extent any of those exhibits are deemed relevant admission of the exhibit would be unduly prejudicial, misleading, and a waste of time.

Exhibits 1244-1250, 1257-1261, 1265, and 1268 are new evidence not disclosed to Patent Owner until after the filing of its Patent Owner response. To the extent those exhibits were cited in Patent Owner's reply they were cited in support of arguments that were not made in the petition and are therefore improper to raise for the first time in Petitioner's reply. The exhibits that were not cited in Petitioner's reply also appear to be in support of new arguments. As such, these exhibits are not relevant to the instituted ground of review. Further, to the extent

?

any of those exhibits are deemed relevant admission of the exhibit would be unduly prejudicial, misleading, and a waste of time, as the prejudice to Patent Owner for being surprised and unable to respond to Petitioner's new evidence outweighs the relevance of this evidence.

Caltech objects to Exhibits 1262 and 1264 to the extent testimony was elicited from questions outside the scope of the witness's direct testimony, as such testimony is both not relevant and prejudicial to Caltech, as well as in violation of F.R.E. 611(b) and 37 C.F.R. § 42.53(d)(5)(ii).

Caltech further objects to Exhibit 1268 and the portions of Exhibit 1265 that rely on Exhibit 1268 for failure to comply with 37 C.F.R. § 42.65.

Caltech further objects to Exhibit 1267 ("California Institute of Technology v. Hughes Communications Inc., No. 2:13-cv-07245-MRP-JEM, 2015 WL 11089495 (C.D. Cal. May 5, 2015)") under F.R.E. 106 ("Remainder of or Related Writings or Recorded Statements"). If Exhibit 1067 is deemed admissible then other writings or recorded statements in fairness ought to be considered at the same time.

III. CONCLUSION

Exhibits 1244-1251, 1253, 1255, 1257-1262, 1264-1265, 1267, and 1268 were filed and served on February 7, 2018. These objections are made within five business days of service.

?

Case IPR2017-00210 Patent 7,116,710

Respectfully submitted,

Date: February 14, 2018

/ Michael T. Rosato / Michael T. Rosato, Lead Counsel Reg. No. 52,182

DOCKET A L A R M



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.