

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.

VALENCELL, INC.  
Patent Owner

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Case IPR2017-00319  
U.S. Patent No. 8,923,941

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**PETITIONER'S OBJECTIONS TO PATENT OWNER'S  
EVIDENCE PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

***Mail Stop PATENT BOARD***  
Patent Trial and Appeal Board  
U.S. Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner Apple Inc. (“Apple”) hereby objects under the Federal Rules of Evidence (“FRE”) and 37 C.F.R. § 42.62 to the admissibility of Exhibit 2006 cited in Valencell, Inc.’s Patent Owner’s Response (Paper 22). These objections are being timely filed within five (5) business days of the Patent Owner’s service of the exhibit to which these objections are directed. Apple files and serves Valencell with these objections to provide notice that Apple may move to exclude Exhibit 2006 under 37 C.F.R. § 42.64(c).

**1. Exhibit 2006**

Petitioner objects to Exhibit 2006, specifically at least ¶¶ 40, 76-77, 80, 85, 87, 97-98 as improper expert testimony under FRE 702 and 703. The testimony is based on insufficient facts or data, is not the product of reliable principles and methods, and the expert has not reliably applied the appropriate principles and methods to the facts of the case.

In addition, at least ¶ 40 is inadmissible as irrelevant pursuant to FRE 401, 402, and 403 because it has not been relied upon in support of any argument made in the Patent Owner Response. Any arguments not made in the Patent Owner Response are deemed waived. *See* Paper 11 at 3.

IPR2017-00319  
U.S. Patent No. 8,923,941

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

/Michelle K. Holoubek, Reg. # 54,179/

Michelle K. Holoubek  
Registration No. 54,179  
Attorney for Petitioner

Date: September 29, 2017

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**CERTIFICATION OF SERVICE**

The undersigned hereby certifies that the foregoing **PETITIONER'S**  
**OBJECTIONS TO PATENT OWNER'S EVIDENCE PURSUANT TO 37**  
**C.F.R. § 42.64(b)(1)** was served electronically via e-mail on September 29, 2017,  
in its entirety on the following counsel of record for Patent Owner:

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