

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

CALIFORNIA INSTITUTE OF TECHNOLOGY,
Patent Owner.

Case IPR2017-00728
Patent 7,421,032

PATENT OWNER'S NOTICE OF OBJECTIONS 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 1206, 1210, 1215, 1218, 1219, and 1223. 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. 1206 and any Reference to/Reliance Thereon

Evidence objected to: Ex. 1206, “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. 1206 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. 1206 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.

B. Objections to Ex. 1210 and any Reference to/Reliance Thereon

Evidence objected to: Ex. 1210, “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).

Ex. 1210 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, insofar as any aspect of the exhibit is relied on to establish a date of public accessibility, the exhibit represents impermissible hearsay. Moreover, the exhibit has not been authenticated.

C. Objections to Ex. 1215 and any Reference to/Reliance Thereon

Evidence objected to: Ex. 1215, “Expert Report of Dr. Brendan Frey.”

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. 1215 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. 1215 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.

D. Objections to Ex. 1218 and any Reference to/Reliance Thereon

Evidence objected to: Ex. 1218, “U.S. Patent No. 4,271,520”

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. 1218 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. 1218 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. 1219 and any Reference to/Reliance Thereon

Evidence objected to: Ex. 1219, “Declaration of Robin Fradenburgh.”

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

Ex. 1219 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.

F. Objections to Ex. 1223 and any Reference to/Reliance Thereon

Evidence objected to: Ex. 1223, “Declaration of Paul H. Siegel”

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. 1223 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. 1223 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.

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