

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

K/S HIMPP,  
Petitioner,

v.

III HOLDINGS 4, LLC,  
Patent Owner.

---

Case No. IPR2017-00783  
Patent 9,191,756

---

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

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

Patent Owner, III Holdings 4, LLC, objects to the admissibility of the following evidence submitted by Petitioner K/S HIMPP pursuant to 37 C.F.R. § 42.64(b)(1). These objections are being timely filed within 10 business days after the Decision to Institute. Patent Owner asks the Patent Trial and Appeal Board to deny the admission and consideration of the following documents on the following bases:

**Exhibit 1012 – Barron’s Dictionary of Computer and Internet Terms (11<sup>th</sup> ed. 2013)**

Patent Owner objects to the admission of Exhibit 1012 as irrelevant to this proceeding because Petitioner has not established that Exhibit 1012 was publicly available before the earliest possible priority date of the '756 patent. Petitioner has not established that Exhibit 1012 is a prior art printed publication eligible for this IPR proceeding or consideration by the identified Expert Dr. Robert Morrow, rendering the Exhibit 1012 reference irrelevant to this IPR proceeding pursuant to FRE 401 and inadmissible under FRE 402.

To the extent Petitioner relies on the contents of this document for the truth of the matter asserted, Patent Owner objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

**Exhibit 1013 – I. Sager, *Before Iphone and Android Came Simon, the First Smartphone* (June 29, 2012), <https://www.bloomberg.com/news/articles/2012-06-29/before-iphone-and-android-came-simon-the-first-smartphone>**

Patent Owner objects to the admission of Exhibit 1013 as irrelevant to this proceeding because Petitioner has not established that Exhibit 1013 was publicly available before the earliest possible priority date of the '756 patent. Petitioner has not established that Exhibit 1013 is a prior art printed publication eligible for this IPR proceeding, rendering the Exhibit 1013 reference irrelevant to this IPR proceeding pursuant to FRE 401 and inadmissible under FRE 402.

To the extent Petitioner relies on the contents of this document for the truth of the matter asserted, Patent Owner objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

Patent Owner objects to this document as not properly authenticated under FRE 901 because Petitioners have not presented any evidence that the document is authentic or that the document is self-authenticating under FRE 902.

**Exhibit 1014 – T. Martin, *The evolution of the smartphone* (July 29, 2014), <http://pocketnow.com/2014/07/28/the-evolution-of-the-smartphone>**

Patent Owner objects to the admission of Exhibit 1014 as irrelevant to this proceeding because Petitioner has not established that Exhibit 1014 was publicly

available before the earliest possible priority date of the '756 patent. Petitioner has not established that Exhibit 1014 is a prior art printed publication eligible for this IPR proceeding, rendering the Exhibit 1014 reference irrelevant to this IPR proceeding pursuant to FRE 401 and inadmissible under FRE 402.

To the extent Petitioner relies on the contents of this document for the truth of the matter asserted, Patent Owner objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

Patent Owner objects to this document as not properly authenticated under FRE 901 because Petitioners have not presented any evidence that the document is authentic or that the document is self-authenticating under FRE 902.

**Exhibit 1015 – S. Mukherjee, *Smartphone Evolution: From IBM Simon to Samsung Galaxy S3* (May 8, 2012), <http://www.ibtimes.com/smartphone-evolution-ibm-simon-samsung-galaxy-s3-697340>**

Patent Owner objects to the admission of Exhibit 1015 as irrelevant to this proceeding because Petitioner has not established that Exhibit 1015 was publicly available before the earliest possible priority date of the '756 patent. Petitioner has not established that Exhibit 1015 is a prior art printed publication eligible for this IPR proceeding, rendering the Exhibit 1015 reference irrelevant to this IPR proceeding pursuant to FRE 401 and inadmissible under FRE 402.

To the extent Petitioner relies on the contents of this document for the truth of the matter asserted, Patent Owner objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

Patent Owner objects to this document as not properly authenticated under FRE 901 because Petitioners have not presented any evidence that the document is authentic or that the document is self-authenticating under FRE 902.

**Exhibit 1016 – B. Kasoff, *A Closer Look: The Evolution of the Smart Phone* (September 19, 2014), <http://blog.wipp.org/2014/09/a-closer-look-the-evolution-of>**

Patent Owner objects to the admission of Exhibit 1016 as irrelevant to this proceeding because Petitioner has not established that Exhibit 1016 was publicly available before the earliest possible priority date of the '756 patent. Petitioner has not established that Exhibit 1016 is a prior art printed publication eligible for this IPR proceeding, rendering the Exhibit 1016 reference irrelevant to this IPR proceeding pursuant to FRE 401 and inadmissible under FRE 402.

To the extent Petitioner relies on the contents of this document for the truth of the matter asserted, Patent Owner objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

# 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.