

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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GOOGLE INC.,  
Petitioner,

v.

BLACKBERRY LTD.,  
Patent Owner.

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Case No. IPR2017-00913  
U.S. Patent No. 8,402,384 B2

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**PATENT OWNER'S OBJECTIONS TO PETITIONER'S EXHIBITS**

Pursuant to 37 C.F.R. § 42.64(b)(1), the undersigned, on behalf of and acting in a representative capacity for Patent Owner BlackBerry Limited (“Patent Owner”), hereby submits the following objections to Petitioner Google Inc.’s (“Petitioner”) Exhibits 1002, 1012, and 1013, and any reference thereto/reliance thereon, without limitation. Patent Owner’s objections below apply the Federal Rules of Evidence (“F.R.E”) as required by 37 C.F.R. § 42.62.

These objections address evidentiary deficiencies in the materials submitted by Petitioner with its Petition on February 16, 2017.

The following objections apply to Exhibits 1002, 1012, and 1013 as they are actually presented by Petitioner, in the context of Petitioner’s February 16, 2017 Petition (Paper 1) and not in the context of any other substantive argument on the merits of the instituted grounds in this proceeding. Patent Owner expressly objects to any other purported use of these Exhibits, including as substantive evidence in this proceeding, which would be untimely and improper under the applicable rules, and Patent Owner expressly asserts, reserves and does not waive any other objections that would be applicable in such a context.

**I. Objection to Exhibit 1002, And Any Reference to/Reliance Thereon**

Grounds for objection: F.R.E. 702 (“Testimony by Expert Witnesses”); F.R.E. 403 (“Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons”); and 37 C.F.R. § 42.61 (“Admissibility”).

Patent Owner objects to the use of Exhibit 1002 under F.R.E. 702 and 37 C.F.R. § 42.61. Exhibit 1002 is the Declaration of Dr. Dan R. Olsen Jr. in support of the Petition. Exhibit 1002 purports to provide expert testimony in this matter, but—in many key respects—fails to establish the basis for Dr. Olsen’s opinions. For example, Dr. Olsen offers only conclusory statements in support of his opinions in paragraphs 15-21, 55, 61, 82, and 85-86 regarding technical features that were purportedly “well known” at the time of the alleged invention. Dr. Olsen also offers only conclusory statements in support of his opinions in at least paragraphs 87-88, 94-97, 100-01, 103-07, 110, 113, 125, and 128-29 that it would have been obvious for a POSITA to modify Cadiz (Exhibit 1005) to perform the claimed methods. Similarly, Dr. Olsen offers only conclusory statements in support of his opinions in at least paragraphs 131-32 and 135-37 that it would have been obvious for a POSITA to combine elements from Ng (Exhibit 1006) with Cadiz (Exhibit 1005) to perform the claimed methods. Likewise, Dr. Olsen offers only conclusory statements in support of his opinion in at least paragraphs 139 and 142-44 that it would have been obvious for a POSITA to combine elements from Matthews (Exhibit 1008) with Cadiz (Exhibit 1005) to perform the claimed methods. And Dr. Olsen also offers only conclusory statements in support of his opinion in at least paragraphs 146-50 that it would have been obvious for a

POSITA to modify Cadiz (Exhibit 1005) and/or combine elements from Smith (Exhibit 1009) with Cadiz (Exhibit 1005) to perform the claimed methods.

Such conclusory statements without reference to the underlying basis for Dr. Olsen's opinion is not proper testimony under F.R.E. 702 and should be excluded. Accordingly, permitting reliance on this document in the Petition or other submissions by Petitioner would be misleading and unfairly prejudicial to Patent Owner (F.R.E. 403).

## **II. Objection to Exhibits 1012 and 1013, And Any Reference to/Reliance Thereon**

Grounds for objection: F.R.E. 901 ("Authenticating or Identifying Evidence"); F.R.E. 1002 ("Requirement of the Original"); F.R.E. 1003 ("Admissibility of Duplicates"); and 37 C.F.R. § 42.61 ("Admissibility").

Patent Owner objects to the use of Exhibits 1012 and 1013 under F.R.E. 901, 1002, 1003, and 37 C.F.R. § 42.61 because Petitioner fails to provide the authentication required for these documents, and the Exhibits are not self-authenticating under F.R.E. 902.

Dated: September 25, 2017

Respectfully Submitted,

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