

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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GOOGLE LLC,  
Petitioner,

v.

BLACKBERRY LTD.,  
Patent Owner.

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Case No. IPR2017-01620  
U.S. Patent No. 8,489,868 B2

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**PATENT OWNER'S OBJECTIONS  
TO PETITIONER'S REPLY EVIDENCE**

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 LLC's ("Petitioner") Exhibits 1038-1043, 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 Petitioner's Reply on July 25, 2018.

The following objections apply to Exhibits 1038-1043 as they are actually presented by Petitioner, in the context of Petitioner's July 25, 2018 Reply (Paper 19) 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. Objections to Exhibits 1038-1043, 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"); F.R.E. 801, 802 (Impermissible Hearsay); F.R.E.

IPR2017-01620 (U.S. Patent No. 8,489,868) PO's Objections to Reply Evidence 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 Exhibits 1038-1043 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.

Patent Owner further objects to Exhibits 1038-1043 as including impermissible hearsay under F.R.E. 801 and 802 to the extent to which the out of court statements therein are offered for the truth of the matters asserted and constitute impermissible hearsay for which Petitioner has not demonstrated any exception or exclusion to the rule against hearsay. For example, Petitioner relies on the truth of out of court statements made in Exhibits 1038-1043 to support its argument that the Gong reference was "published and publicly available" prior to the priority date of the '868 patent, but has not demonstrated that any exception or exclusion to the rule against hearsay applies. Pet. 4. Accordingly, permitting reliance on this document in Petitioner's Reply or other submissions by Petitioner would be misleading and unfairly prejudicial to Patent Owner (F.R.E. 403).

Dated: August 1, 2018

Respectfully Submitted,

/ Ching-Lee Fukuda/  
Ching-Lee Fukuda

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**CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on this 1st day of August, 2018, I caused to be served a true and correct copy of the foregoing by electronic mail on the following counsel:

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Dated: August 1, 2018

Respectfully Submitted,

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