

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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WESTERN DIGITAL CORPORATION  
Petitioner,

v.

SPEX TECHNOLOGIES, INC.  
Patent Owner.

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Case No. IPR2018-00082  
Patent 6,088,802

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**PETITIONER WESTERN DIGITAL CORPORATION'S OBJECTIONS TO  
EVIDENCE UNDER 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

Pursuant to 37 C.F.R. § 42.64(b)(1), the Petitioner Western Digital Corporation (“WD”), hereby objects to the following evidence submitted by Patent Owner SPEX Technologies, Inc. (“SPEX”) during *Inter Partes* Review of U.S. Patent No. 8,088,802:

1. **Exhibit 2004** is objected to as irrelevant under Fed. R. Ev. 402 and 37 C.F.R. § 42.62; the exhibit and its contents are not cited or discussed in the patent, file history, or instituted references; the exhibit discusses subject matter unrelated to this *inter partes* review; and the exhibit is dated many years after the priority date of the patent. In addition, the discussion of alleged infringement by accused products is irrelevant to these proceedings.
2. **Exhibit 2004** is further objected to as unfairly prejudicial, confusing the issues, misleading, and a waste of time under Fed. R. Ev. 403; the exhibit and its contents reflect Patent Owner’s allegations of infringement against specific products. Reliance on irrelevant discussions of products accused of infringement is misleading, a waste of time and risks confusing the issues in this proceeding. Moreover, Patent Owner’s allegation of infringement is not only unproven, but also incorrect. For that reason, the exhibit is also misleading and unfairly prejudicial.
3. **Exhibit 2004** is further objected to as hearsay under Fed. R. Ev. 801 and 802 and 37 C.F.R. § 42.62 because it is an out of court statement used for the

truth of the matter asserted; the exhibit contains unsworn representations from Patent Owner regarding products accused of infringement.

These objections have been timely made and served within 10 business days from the April 25, 2018 Decision on Institution of *Inter Partes* Review.

Respectfully submitted,

DATED: May 9, 2018

By: /s/ Brian M. Buroker

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*Attorney for Petitioner Western Digital Corp.*

## CERTIFICATE OF SERVICE

The undersigned certifies service pursuant to 37 C.F.R. § 42.6(e) of a copy of this Objections to Evidence by electronic mail on May 9, 2018, on the counsel of record of the Patent Owner:

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DATED: May 9, 2018

By: */s/ Brian M. Buroker* \_\_\_\_\_

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*Attorney for Petitioner Western Digital Corp..*