UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.,
Petitioner,

v.

QUALCOMM INCORPORATED,
Patent Owner.

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Case IPR2018-01282
Patent 8,768,865

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**PETITIONER'S OBJECTIONS TO EVIDENCE**

Pursuant to 37 C.F.R. § 42.64(b), Petitioner, Apple Inc., respectfully asserts the following objections to the evidence proffered with Patent Owner Response to *Inter Partes* Review Petition submitted on May 28, 2019 ("POR"). These objections are being provided within ten business days from the institution of the trial, and are thus timely pursuant to 37 C.F.R. § 42.64(b)(1). The Federal Rules of Evidence (FRE) apply to these proceedings according to the provisions of 37 C.F.R. § 42.62(a), and these rules form the basis of the objections contained herein.

| **Ex. Number and Patent Owner's Description** | **Objections** |
|---|---|
| 2005: Declaration of John Villasenor; ¶ 27 | Hearsay. Fed. R. Evid. 801(c) and 802. To the extent that Petitioner relies on this portion of the exhibit to prove the truth of matters described therein, it is hearsay: *e.g.*, that "A person of ordinary skill in the art would understand that 'fixing' parameters, in the context of the '865 Patent, refers to setting the scope of analysis to enable pattern recognition of additional patterns when there is a pattern in the fixed parameters." *See* Ex. 2005 at ¶ 27. Patent Owner has not offered evidence sufficient to demonstrate that this portion of the exhibit falls within any exception to the rule against hearsay.<br><br>Relevance. Fed. R. Evid. 401-403. This portion of the exhibit is irrelevant under FRE 401, and thus inadmissible under FRE 402, or inadmissible as unfairly prejudicial, confusing, and/or a waste of time under FRE 403, because it is inadmissible under FRE 801, 802, and 901 as explained above. |

| Ex. Number and Patent Owner's Description | Objections |
|---|---|
| 2005: Declaration of John Villasenor; ¶ 32 | Hearsay. Fed. R. Evid. 801(c) and 802. To the extent that Petitioner relies on this portion of the exhibit to prove the truth of matters described therein, it is hearsay: *e.g.*, that "A person of ordinary skill in the art would understand that the '865 Patent describes 'associating' as a substep of 'fixing,' that 'associating' does not, on its own, accomplish 'fixing.' …. association must be used to set the scope of analysis to enable pattern recognition of additional patterns when 'motion state' ='driving.'" *See* Ex. 2005 at ¶ 32. Patent Owner has not offered evidence sufficient to demonstrate that this portion of the exhibit falls within any exception to the rule against hearsay.<br><br>Relevance. Fed. R. Evid. 401-403. This portion of the exhibit is irrelevant under FRE 401, and thus inadmissible under FRE 402, or inadmissible as unfairly prejudicial, confusing, and/or a waste of time under FRE 403, because it is inadmissible under FRE 801, 802, and 901 as explained above. |

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| 2005: Declaration of John Villasenor; ¶ 37 | Hearsay. Fed. R. Evid. 801(c) and 802. To the extent that Petitioner relies on this portion of the exhibit to prove the truth of matters described therein, it is hearsay: *e.g.*, that "A person of ordinary skill in the art would understand the BRI of 'pattern,' as used in the '865 Patent, to be: 'a collection of one or more pairs of varying parameters and corresponding parameter values, as well as the relationship between each pair (where the relationship may be implicit).' …This construction is incomplete because it does not explicitly state that the pattern includes not only parameter values, but the linked parameter." *See* Ex. 2005 at ¶ 37. Patent Owner has not offered evidence sufficient to demonstrate that this portion of the exhibit falls within any exception to the rule against hearsay.<br><br>Relevance. Fed. R. Evid. 401-403. This portion of the exhibit is irrelevant under FRE 401, and thus inadmissible under FRE 402, or inadmissible as unfairly prejudicial, confusing, and/or a waste of time under FRE 403, because it is inadmissible under FRE 801, 802, and 901 as explained above. |

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| 2005: Declaration of John Villasenor; ¶ 40 | Hearsay. Fed. R. Evid. 801(c) and 802. To the extent that Petitioner relies on this portion of the exhibit to prove the truth of matters described therein, it is hearsay: *e.g.*, that "A person of ordinary skill in the art would understand that identifying a pattern means identifying all of the elements I discussed above that make up the pattern." *See* Ex. 2005 at ¶ 40. Patent Owner has not offered evidence sufficient to demonstrate that this portion of the exhibit falls within any exception to the rule against hearsay.<br><br>Relevance. Fed. R. Evid. 401-403. This portion of the exhibit is irrelevant under FRE 401, and thus inadmissible under FRE 402, or inadmissible as unfairly prejudicial, confusing, and/or a waste of time under FRE 403, because it is inadmissible under FRE 801, 802, and 901 as explained above. |
| 2005: Declaration of John Villasenor; ¶ 43 | Hearsay. Fed. R. Evid. 801(c) and 802. To the extent that Petitioner relies on this portion of the exhibit to prove the truth of matters described therein, it is hearsay: *e.g.*, that "Petitioner's proposed construction is contrary to the description of "fixing" in the patent." *See* Ex. 2005 at ¶ 43. Patent Owner has not offered evidence sufficient to demonstrate that this portion of the exhibit falls within any exception to the rule against hearsay.<br><br>Relevance. Fed. R. Evid. 401-403. This portion of the exhibit is irrelevant under FRE 401, and thus inadmissible under FRE 402, or inadmissible as unfairly prejudicial, confusing, and/or a waste of time under FRE 403, because it is inadmissible under FRE 801, 802, and 901 as explained above. |

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