UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

QUALCOMM INCORPORATED,
Patent Owner.

Case IPR2018-01315
Patent No. 8,063,674

PETITIONER'S OBJECTIONS TO EVIDENCE

Apple Inc. ("Petitioner" or "Apple") submits the following objections to evidence filed by Qualcomm Incorporated ("Patent Owner" or "Qualcomm") in conjunction with the Patent Owner's Response filed on April 17, 2019 (Paper 12). Pursuant to 37 C.F.R. § 42.64(b)(1), these objections are made within five business days from service of the Patent Owner's Response. *See* Paper 12 at 58 (confirming service "on April 17, 2019 by email").

Pursuant to **FRE 401, 402, and 403**, Petitioner objects to the admissibility of Exhibits 2004 and 2005 as irrelevant and prejudicial. Exhibits 2004 and 2005 are briefs filed by counsel at Fish & Richardson P.C. on behalf of another client in an entirely different and unrelated case. Whether or not counsel at Fish & Richardson P.C. made certain arguments in advocating on behalf of another client under different sets of facts is entirely irrelevant to this proceeding, because the fact that such arguments exist is of no consequence in determining the present action. Further, Patent Owner's reliance on these briefs is highly prejudicial to Apple, as Apple was not a party to the case in which Exhibits 2004 and 2005 were filed, and therefore did not advance the arguments as set forth in Exhibits 2004 and 2005.

Pursuant to **FRE 801 and 802**, Petitioner objects to the admissibility of Exhibits 2004 and 2005 as hearsay. Patent Owner relied upon the arguments set

forth in Exhibits 2004 and 2005 for the truth of its contention that Applicants' Admitted Prior Art (AAPA) is not eligible for *inter partes* review. *See* Paper 12 at 19. As noted above, Exhibits 2004 and 2005 are briefs filed by counsel at Fish & Richardson P.C. on behalf of another client in an entirely different and unrelated case. Therefore, Exhibits 2004 and 2005 constituted hearsay for the purpose Patent Owner relies upon them.

Pursuant to **FRE 702**, Petitioner objects to the admissibility of those portions of Exhibit 2002 that rely upon an unduly narrow interpretation of obviousness under 35 U.S.C. § 103. *See* Ex. 2002 at ¶¶ 66-123. Exhibit 2002 is the declaration of Dr. Massoud Pedram. In paragraphs 66-123, Dr. Pedram purports to assert various reasons why it would not have been obvious to combine the references as set forth in the Petition. In so doing, Dr. Pedram applies an unduly narrow interpretation of obviousness under 35 U.S.C. § 103, failing to account for, for example, the rationales set forth in *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398 (2007). Accordingly, these paragraphs are inadmissible under FRE 702, because the legal conclusions that Dr. Pedram purports to reach are not based on reliable principles and methods.

Respectfully submitted,

Date: April 24, 2019

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CERTIFICATE OF SERVICE

Pursuant to 37 CFR §§ 42.6(e)(4), the undersigned certifies that on April 24, 2019, a complete and entire copy of this Petitioner's Objections to Evidence was provided via email to the Patent Owner by serving the email correspondence addresses of record as follows:

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