

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VISA INC., VISA U.S.A. INC., and
APPLE INC.,
Petitioners,

v.

UNIVERSAL SECURE REGISTRY LLC,
Patent Owner.

Case IPR2018-01350¹
Patent No. 8,856,539

PETITIONERS' THIRD NOTICE OF OBJECTION TO EVIDENCE

¹ Apple Inc., which filed a petition in IPR2019-00727, has been joined as a party to this proceeding.

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioners submit the following objections to Patent Owner Universal Secure Registry LLC's ("PO") Exhibits 2011 and 2012. As required by 37 C.F.R. § 42.62, Petitioners' objections below apply the Federal Rules of Evidence ("F.R.E.").

II. OBJECTIONS

A. Objections to Ex. 2011 and any Reference to/Reliance Thereon

Evidence objected to: Ex. 2011.

Grounds for Objection: F.R.E. 401 (Test for Relevant Evidence); F.R.E. 402 (General Admissibility of Relevant Evidence); F.R.E. 403 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons).

Paragraphs 1-28 and 55-56 of Exhibit 2011 have not been relied upon by PO in rebutting or addressing any instituted ground of challenge or PO's motion to amend. Accordingly, at least those portions of this exhibit are not relevant to the proceeding. Further, to the extent this exhibit is deemed relevant, admission of at least those portions of the exhibit would be unduly prejudicial, misleading, and a waste of time in view of the fact that they have not been relied upon by PO.

In addition, Petitioners object to paragraphs 30-32 and 35 of Exhibit 2011 to the extent they cite to evidence not previously cited in PO's Motion to Amend or the accompanying declaration, Exhibit 2010, including but not limited to the

following citations to Exhibit 2008 and the written description arguments in reliance thereof: lines 5:16-17, 12:28-28, 15:10-16:27 and Figure 6 with respect to limitations 39[c], 48[a], 51[d], and 52[pre] (*see* Ex. 2010 at ¶¶30-32) and lines 17:7-8 with respect to limitation 46[d] (*see* Ex. 2010 at ¶35). As those portions of Exhibit 2008 were not cited in PO's Motion to Amend or Exhibit 2010, the paragraphs of Exhibit 2011 now relying on them are not relevant to the proceeding. Further, to the extent those paragraphs are deemed relevant, admission of at least those portions of the exhibit would be unduly prejudicial, misleading, and a waste of time in view of the fact that they rely on evidence not cited in PO's motion to amend.

B. Objections to Ex. 2012 and any Reference to/Reliance Thereon

Evidence objected to: Ex. 2012.

Grounds for Objection: F.R.E. 401 (Test for Relevant Evidence); F.R.E. 402 (General Admissibility of Relevant Evidence); F.R.E. 403 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons).

Pages 1-16 and 19-27 of Exhibit 2012 have not been relied upon by PO in rebutting or addressing any instituted ground of challenge or PO's motion to amend. Accordingly, at least those portions of this exhibit are not relevant to the proceeding. They are also not relevant because they are directed to patents or arguments that are not at issue in this proceeding. Further, to the extent this exhibit

is deemed relevant, admission of at least those portions of the exhibit would be unduly prejudicial, misleading, and a waste of time in view of the fact that they have not been relied upon by PO.

Moreover, the portions of Exhibit 2012 relied upon by PO are a non-binding Magistrate Judge's recommendation from a different proceeding involving a different record and are not directed to any of PO's substitute claims. Accordingly, those portions are also not relevant to the proceeding, and to the extent they are deemed relevant, their admission would be unduly prejudicial, misleading, and a waste of time.

III. CONCLUSION

Exhibits 2011 and 2012 were served on September 11, 2019, in support of the Patent Owner's Reply in Support of its Motion to Amend. These objections are made within five business days of service.

Respectfully submitted,

Date: September 18, 2019

/ Matthew A. Argenti /
Matthew A. Argenti, Lead Counsel
Reg. No. 61,836

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CERTIFICATE OF SERVICE

I certify that the foregoing Petitioners' Third Notice of Objection to Evidence was served on this 18th day of September, 2019, on the Patent Owner at the correspondence address of the Patent Owner as follows:

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And on the remaining petitioners as follows:

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Respectfully submitted,

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/ Matthew A. Argenti /
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