

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,

Petitioner,

v.

FIRSTFACE CO., LTD.,

Patent Owner.

Case IPR2019-00613¹
U.S. Patent No. 9,633,373

**PETITIONER'S OBJECTIONS TO EXHIBITS SUBMITTED WITH
PATENT OWNER'S RESPONSE**

¹ Case IPR2019-01011 has been consolidated with this proceeding.

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner Apple Inc. (“Petitioner”) hereby submits the following objections to Patent Owner Firstface Co., Ltd. (“Patent Owner”)’s Exhibits 2001, 2008 and any reference to or reliance on them, without limitation. Petitioner’s objections below apply the Federal Rules of Evidence (“F.R.E.”). These objections address evidentiary deficiencies in the material submitted by Patent Owner with its Response on November 25, 2019.

To the extent Patent Owner does not cite these Exhibits (Exhibit 2008) or to paragraphs of its witness declaration (Exhibit 2001) in its Patent Owner Response, permitting reference to or reliance on these Exhibits and paragraphs in other submissions of Patent Owner would be impermissible, misleading, irrelevant, and unfairly prejudicial to Petitioner (F.R.E. 401, 402, 403). By failing to cite Exhibits or paragraphs of its witness declaration, Patent Owner has also waived any arguments as to those Exhibits and portions of the declaration. *See* 37 C.F.R. § 42.6(a)(3).

I. Objections to Exhibit 2001, And Any Reference to/Reliance Thereon

Grounds for objection: F.R.E. 702 (“Testimony by Expert Witnesses”); F.R.E. 703 (“Bases of an Expert’s Opinion Testimony”); 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”); 37 C.F.R. § 42.61 (“Admissibility”).

Petitioner objects to Exhibit 2001. The declarant of Exhibit 2001, Dr. Weaver, fails to provide sufficient underlying facts or data upon which the statements contained therein could legitimately be based, in violation of F.R.E. 702. Dr. Weaver has also not “reliably applied the principles and methods to the facts of the case,” and his opinions in Exhibit 2001 are not “the product of reliable principles and methods,” in violation of F.R.E. 702. Furthermore, there is no indication that Dr. Weaver based his opinions on facts or data upon which an expert in the relevant field would reasonably rely in violation of F.R.E. 703.

Accordingly, permitting reliance on Exhibit 2001 in Patent Owner’s Response or other submissions of Patent Owner would be misleading and unfairly prejudicial to Petitioner (F.R.E. 403).

II. Objections to Exhibit 2008, And Any Reference to/Reliance Thereon

Grounds for objection: 37 C.F.R. § 42.61 (“Admissibility”); 37 C.F.R. § 42.64(a) (“Deposition evidence”); 37 C.F.R. § 42.53(f)(8) (Objections in depositions).

Exhibit 2008 is a deposition transcript from the present proceeding. Petitioner hereby expressly repeats and incorporates by reference all objections stated on the record in that deposition, and affirmatively maintains all such objections.

Dated: December 3, 2019

Respectfully submitted,

By: /s/ Christopher M. Bonny

Christopher M. Bonny

Reg. No. 63,307

Counsel for Petitioner Apple Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing **PETITIONER'S OBJECTIONS TO EXHIBITS SUBMITTED WITH PATENT OWNER'S RESPONSE** was served on December 3, 2019 in its entirety by causing the aforementioned document to be electronically mailed, pursuant to the parties' agreement, to the following attorneys of record:

Lead Counsel: Barry J. Bumgardner, Reg. No. 38,397
NELSON BUMGARDNER ALBRITTON P.C.
3131 W. 7th Street, Suit 300
Fort Worth, TX 76107
Phone: 817-377-3494
Email: barry@nbafirm.com

Back-up Counsel: Matthew C. Juren
Email: matthew@nbafirm.com

Thomas C. Cecil
Email: tom@nbafirm.com

NELSON BUMGARDNER ALBRITTON P.C.
3131 W. 7th Street, Suit 300
Fort Worth, TX 76107

Date: December 3, 2019

By: /Jonathan Bradford/
Name: Jonathan Bradford
ROPES & GRAY LLP