

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FITBIT, INC.,

Petitioner

v.

PHILIPS NORTH AMERICA LLC

Patent Owner

Case No. IPR2020-00783

U.S. Patent No. 7,088,233

**PATENT OWNER'S NOTICE OF OBJECTIONS UNDER 37 C.F.R. § 42.64
TO PETITIONER'S EVIDENCE SUBMITTED WITH PETITION**

Pursuant to 37 C.F.R. § 42.64, Patent Owner Philips North America LLC (“Patent Owner”) hereby objects as follows to the admissibility of certain evidence cited in support of the Petition. Patent Owner’s objections are based on the Federal Rules of Evidence (“FRE”), relevant case law, Title 35 of the United States Code, and the Rules of the Patent Trial and Appeal Board (“PTAB”). Patent Owner’s objections are stated with particularity below.

EXHIBIT 1002

Patent Owner objects to Exhibit 1002, the Declaration of Dr. Joseph Paradiso, to the extent it includes subject matter that is not permitted pursuant to FRE 602 or 701, including without limitation, to the extent that the declaration presents as “facts” information that is outside the personal knowledge of the declarant, and/or to the extent that the document offers improper lay opinion testimony. Patent Owner objects to the portions of Exhibit 1002 that cite an exhibit objected to herein for the reasons stated herein.

EXHIBIT 1012

Patent Owner objects to Exhibit 1012, identified in the Petition as “Specification of the Bluetooth System, Vol. 1, Bluetooth v. 1.0B (Dec. 1, 1999),” under FRE 802. The Petition fails to establish that this exhibit qualifies as a “printed publication” pursuant to 35 U.S.C. § 102, and therefore Patent Owner objects to this exhibit under FRE 401-403. Petitioner relies on this exhibit to prove

the truth of the matter asserted therein, but it fails to meet the requirements of any hearsay exception or exemption under FRE 803-807. Patent Owner objects to Exhibit 1012 under FRE 901-902 as lacking authentication and not self-authenticating because it lacks sufficient indicia that the exhibit is what it purports to be.

Patent Owner objects under FRE 105 to use of Exhibit 1012 for any purpose other than that for which it may be admitted.

EXHIBIT 1018

Patent Owner objects to Exhibit 1018, identified in the Petition as “Digital Networks’ *RoamAbout 2.4 GHz frequency hopping wireless LAN adapters*” (1996),” under FRE 802. The Petition fails to establish that this exhibit qualifies as a “printed publication” pursuant to 35 U.S.C. § 102, and therefore Patent Owner objects to this exhibit under FRE 401-403. Petitioner relies on this exhibit to prove the truth of the matter asserted therein, but it fails to meet the requirements of any hearsay exception or exemption under FRE 803-807. Patent Owner objects to Exhibit 1018 under FRE 901-902 as lacking authentication and not self-authenticating because it lacks sufficient indicia that the exhibit is what it purports to be.

Patent Owner objects under FRE 105 to use of Exhibit 1018 for any purpose other than that for which it may be admitted.

EXHIBIT 1021

Patent Owner objects to Exhibit 1021, identified in the Petition as “Distributed Sensor Networks, Proceedings of a Workshop held at Carnegie-Mellon University December 7-8, 1978,” under FRE 802. The Petition fails to establish that this exhibit qualifies as a “printed publication” pursuant to 35 U.S.C. § 102, and therefore Patent Owner objects to this exhibit under FRE 401-403. Petitioner relies on this exhibit to prove the truth of the matter asserted therein, but it fails to meet the requirements of any hearsay exception or exemption under FRE 803-807. Patent Owner objects to Exhibit 1021 under FRE 901-902 as lacking authentication and not self-authenticating because it lacks sufficient indicia that the exhibit is what it purports to be.

Patent Owner objects under FRE 105 to use of Exhibit 1021 for any purpose other than that for which it may be admitted.

EXHIBIT 1024

Patent Owner objects to Exhibit 1024, identified in the Petition as “Richard S. Johnston et al., ‘Biomedical Results of Apollo’ (1975),” under FRE 802. The Petition fails to establish that this exhibit qualifies as a “printed publication” pursuant to 35 U.S.C. § 102, and therefore Patent Owner objects to this exhibit under FRE 401-403. Petitioner relies on this exhibit to prove the truth of the matter asserted therein, but it fails to meet the requirements of any hearsay

exception or exemption under FRE 803-807. Patent Owner objects to Exhibit 1024 under FRE 901-902 as lacking authentication and not self-authenticating because it lacks sufficient indicia that the exhibit is what it purports to be.

Patent Owner objects under FRE 105 to use of Exhibit 1024 for any purpose other than that for which it may be admitted.

EXHIBIT 1027

Patent Owner objects to Exhibit 1027, identified in the Petition as “Kris Goodfellow, One Digital Day in Her Life, N.Y. Times, Apr. 16, 1998,” under FRE 802. The Petition fails to establish that this exhibit qualifies as a “printed publication” pursuant to 35 U.S.C. § 102, and therefore Patent Owner objects to this exhibit under FRE 401-403. Petitioner relies on this exhibit to prove the truth of the matter asserted therein, but it fails to meet the requirements of any hearsay exception or exemption under FRE 803-807. Patent Owner objects to Exhibit 1027 under FRE 901-902 as lacking authentication and not self-authenticating because it lacks sufficient indicia that the exhibit is what it purports to be. Patent Owner further objects to Exhibit 1027 under FRE 106 because the exhibit appears only to be an incomplete portion of the purported article.

Patent Owner objects under FRE 105 to use of Exhibit 1027 for any purpose other than that for which it may be admitted.

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