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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.

Petitioner,

v.

MASIMO CORPORATION,

Patent Owner.

Case IPR2020-01523
U.S. Patent 8,457,703

PATENT OWNER'S OBJECTIONS TO EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b), Patent Owner Masimo Corporation objects as follows to the admissibility of evidence served with the Petition. Patent Owner reserves its rights to: (1) timely file a motion to exclude these objectionable exhibits or portions thereof; (2) challenge the credibility and/or weight that should be afforded to these exhibits, whether or not Patent Owner files a motion to exclude the exhibits; (3) challenge the sufficiency of the evidence to meet Petitioner's burden of proof on any issue, including, without limitation, whether Petitioner met its burden to prove the prior art status of the alleged prior art on which it relies, whether or not Patent Owner has objected to, or files a motion to exclude, the evidence; and (4) cross examine any Petitioner declarant within the scope of his or her direct testimony that relates to these exhibits, without regard to whether Patent Owner has objected to the testimony or related exhibits or whether the testimony or related exhibits are ultimately found to be inadmissible.

Exhibit Number and Description	Objections
Ex. 1003 – Declaration of Dr. Anthony	<p>Masimo's objections to Ex. 1003 are set forth below. To the extent Dr. Anthony's declaration incorporates objectionable material in the cited paragraphs below in additional paragraphs or sections, Masimo's objections apply with equal force to those additional paragraphs or sections.</p> <p>Incomplete, Irrelevant, Misleading (FRE 106, 401, 403) ¶¶16, 18, 22, 24-25, and 29-32 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Ex. 1001 and the cited art.</p>

¶¶33-34 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Ex. 1001 and the cited art.

¶¶37-40 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Ex. 1007.

¶¶41-42 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Ex. 1004.

¶43 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and it mischaracterize the teachings of Exs. 1004 and 1007.

¶¶44-45 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Exs. 1004 and 1007.

¶¶46-62 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Exs. 1004 and 1007.

¶63 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and it mischaracterize the teachings of Exs. 1004 and 1007.

¶64 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and it mischaracterize the teachings of Exs. 1001, 1004, 1005, and 1007.

¶65 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and it mischaracterize the teachings of Ex. 1007.

¶¶66-67 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited

and they mischaracterize the teachings of Ex. 1005.

¶¶68-73 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Exs. 1004, 1005, and 1007.

¶¶74-78 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Exs. 1004, 1005, and 1007.

¶79 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and it mischaracterize the teachings of Ex. 1006.

¶¶80-83 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Exs. 1004, 1006, and 1007.

¶¶84-86 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Exs. 1004, 1006, and 1007.

¶87 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and it mischaracterize the teachings of Exs. 1004 and 1007.

¶88 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and it mischaracterize the teachings of Ex. 1007.

¶¶89-90 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Exs. 1006 and 1007.

¶¶91-93 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited

and they mischaracterize the teachings of Exs. 1005-1007 and 1015-1021 and the knowledge of a POSITA.

¶¶94-98 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Exs. 1004 and 1007.

¶¶99-113 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Ex. 1004.

¶114 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and it mischaracterize the teachings of Ex. 1004.

¶¶115-116 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Exs. 1001, 1004, 1005, and 1007.

¶117 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and it mischaracterize the teachings of Ex. 1004.

¶¶118-121 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Exs. 1004 and 1006.

¶¶122-124 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Exs. 1004 and 1006.

¶¶125-126 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Ex. 1004.

Improper Testimony by Expert Witness (FRE 702):

¶18 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.

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