UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.,
Petitioner,

v.

MASIMO CORPORATION,
Patent Owner.

_____

Case IPR2020-01715
Patent No. 10,631,765

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# PETITIONER'S OBJECTIONS TO EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner hereby submits the following objections to evidence filed with Patent Owner's Response of July 27, 2021.

| Evidence | Objections |
|---|---|
| **Exhibit 2004** | Petitioner objects to the admissibility of Exhibit 2004 under FRE 702 and 703, because it contains opinions that are conclusory, do not disclose supporting facts or data, are based on unreliable facts, data, or methods, and/or include testimony outside the scope of Dr. Madisetti's specialized knowledge (to the extent he has any such knowledge) that will not assist the trier of fact. Petitioner also objects to Exhibit 2004 as containing opinions that are irrelevant, confusing, and presenting the danger of unfair prejudice under FRE 401, 402, and 403. |
| **Exhibit 2006** | Petitioner incorporates the real-time objections made by Petitioner's counsel reflected in Exhibit 2006, to the extent that such objections relate to portions of Exhibit 2006 that are cited in Patent Owner's Response. |
| **Exhibit 2007** | Petitioner incorporates the real-time objections made by Petitioner's counsel reflected in Exhibit 2007, to the extent that such objections relate to portions of Exhibit 2007 that are cited in Patent Owner's Response. |
| **Exhibit 2008** | Petitioner incorporates the real-time objections made by Petitioner's counsel reflected in Exhibit 2008, to the extent that such objections relate to portions of Exhibit 2008 that are cited in Patent Owner's Response. |

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| **Exhibit 2009** | Petitioner incorporates the real-time objections made by Petitioner's counsel reflected in Exhibit 2009, to the extent that such objections relate to portions of Exhibit 2009 that are cited in Patent Owner's Response. |
| **Exhibit 2010** | Petitioner objects to Exhibit 2010 under FRE 901, as Patent Owner has not submitted evidence that the document is authentic, nor that the document is self-authenticating. Of note, there is insufficient support in the Exhibit 2010 to show that the document was publically available before the priority date of the patent. *See*, *e.g.*, *Microsoft Corp. v. Corel Software, LLC*, IPR2016-01300 (P.T.A.B. Jan. 4, 2017); *ServiceNow, Inc. v. Hewlett-Packard Co*., IPR2015-00716, Paper No. 13 at 2-3, 10-18 (P.T.A.B. Aug. 26, 2015). Petitioner further objects to Exhibit 2010 under FRE 801 and 802 as inadmissible hearsay. |
| **Exhibit 2019** | Petitioner objects to the admissibility of Exhibit 2019 under FRE 401, 402, and 403 at least insofar as the Patent Owner Response does not establish the relevance of the statements cited, and at least insofar as the cited statements are potentially misleading when taken out of context. |
| **Exhibit 2020** | to the admissibility of Exhibit 2020 under FRE 401, 402, and 403 at least insofar as the Patent Owner Response does not establish the relevance of the statements cited, and at least insofar as the cited statements are potentially misleading when taken out of context. |

For at least these reasons, Petitioner objects to Exhibits 2004, 2010, and 2019–2020. Petitioner reserves the right to move to exclude Exhibits 2004, 2010, and 2019–2020.

Respectfully submitted,

Dated: July 30, 2021

/Andrew B. Patrick/

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**CERTIFICATE OF SERVICE**

Pursuant to 37 CFR §§ 42.6(e)(4)(i) *et seq.*, the undersigned certifies that on July 30, 2021, a complete and entire copy of this Petitioner's Objections to Evidence was provided by electronic mail to the Patent Owner by serving the correspondence e-mail address of record as follows:

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