

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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SAMSUNG ELECTRONICS CO. LTD., SAMSUNG ELECTRONICS

AMERICA, INC. AND APPLE, INC.,

Petitioners

v.

NEONODE SMARTPHONE LLC,

Patent Owner

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Case IPR2021-00145

U.S. Patent No. 8,812,993

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**PATENT OWNER NEONODE SMARTPHONE LLC'S OBJECTIONS TO  
EVIDENCE UNDER 37 C.F.R. § 42.64**

Patent Owner Neonode Smartphone LLC (“Neonode”), objects under the Federal Rules of Evidence and 37 C.F.R. § 42.64(b)(1) to the admissibility of the following documents submitted by Petitioners Samsung Electronics Co., Samsung Electronics America, Inc. and Apple Inc. (“Petitioners”) with their Reply to Patent Owner’s Response, Paper No. 49.

Petitioners’ Reply was filed on December 15, 2021. Paper No. 49. Thus, Neonode’s objections are timely under 37 C.F.R. § 42.64(b)(1). Neonode served Petitioners with these objections to provide notice that Neonode will move to exclude these exhibits as improper evidence.

**I. November/December 1995 *Pen Computing Pen Lab* review of IBM ThinkPad 730TE (EX1058)**

Neonode objects to the admissibility of EX1058 for the following reasons:

1. It is offered to prove that “IBM debuted the ThinkPad 730TE in 1995, a year after Hansen’s priority date and seven years before the priority date of the ’993 patent,” and is therefore hearsay. EX1051, ¶86.

2. It is offered to prove that “the ThinkPad 730TE included a DX4/75 processor (i.e., a Central Processing Unit (CPU)), ‘an Integral Peripherals Viper 260MB unit’ disk drive and 8MB of base RAM (i.e., memory units), a ‘port replicator that offers a full complement of serial, parallel, SVGA, floppy, power, and PS/2 style keyboard ports’ (i.e., an input/output port), and ‘accelerated VESA

local-bus graphics' (i.e., a video controller),” and is therefore hearsay. EX1051, ¶86.

3. It is offered to prove that “the ThinkPad 730TE was a windows-based system, having been capable of running Microsoft’s ‘Windows for Pen Computing,’” and is therefore hearsay. EX1051, ¶86.

## **II. Supplemental Declaration of Dr. Benjamin B. Bederson (EX1051).**

Neonode objects to the admissibility of ¶¶14-37, 64-65, 86-87 of EX1051 on the ground that they raise new arguments beyond the scope of the Petition and beyond the proper scope of redirect.

Neonode objects to the admissibility of ¶¶99-106 of EX1051 on the ground that Dr. Bederson purports to testify as a user interface expert, but has demonstrated no qualifications as an expert by knowledge, skill, experience, training, or education in commercial success, industry praise, expert skepticism, or industry respect, so he is not qualified under FRE 702 to offer opinions on whether there is any nexus between the claims and these elements.

## **III. Conclusion**

Therefore, Neonode reserves its rights to file motions to exclude the above evidence and exhibits under 37 C.F.R. § 42.64(c).

Dated: December 22, 2021

Respectfully submitted,

/s/ Philip J. Graves

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**CERTIFICATE OF SERVICE**

It is certified that on December 22, 2021, the foregoing document has been served on Petitioners as provided in 37 C.F.R. § 42.6(e) via electronic mail at IPR50095-0015P1@fr.com.

Dated: December 22, 2021

Respectfully submitted,

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