

Paper No. ____

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.

Petitioner

v.

MEMORYWEB, LLC

Patent Owner

Patent No. 10,621,228

Inter Partes Review No. IPR2022-00031

PATENT OWNER'S OBJECTIONS TO EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner hereby submits objections to evidence served by Petitioner on December 23, 2022 in support of its Reply (Paper 26). The discussion below identifies the evidence Patent Owner objects to and summarizes the objections, including the Federal Rules of Evidence (“FRE”) or other rules that form the basis for the objections.

1. Ex. 1066 - “Scott Meyers & Mike Lee, *Learn Mac OS X Snow Leopard Book (2009) (Excerpts)*”

Patent Owner objects to Ex. 1066 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* Fed. R. Evid. 801-807. Patent Owner objects to Ex. 1066 because it is not sufficiently relevant, and any relevance is outweighed by the risks of confusion, substantial danger of unfair prejudice, and/or misleading the fact finder. *See* Fed. R. Evid. 401-403. Patent Owner objects to Ex. 1066 under FRE 106 because Ex. 1066 contains only excerpts of the writing; the remaining portions of Ex. 1066 in fairness ought to be considered at the same time as the excerpted portions. *See* Fed. R. Evid. 106. Further, Ex. 1066 does not comply with the Board’s rules governing the form of evidence. 37 C.F.R. § 42.63(d)(1)(ii).

2. Ex. 1067 - “Apress.com ordering page for *Learn Mac OS X Snow Leopard (Sept. 2009) Book (Archive.org: Feb. 1, 2010)*”

Patent Owner objects to Ex. 1067 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* Fed. R. Evid. 801-807. Patent Owner objects to Ex. 1067 because it is not sufficiently relevant, and any relevance is

outweighed by the risks of confusion, substantial danger of unfair prejudice, and/or misleading the fact finder. *See* Fed. R. Evid. 401-403. Ex. 1067 is cited nowhere in the Reply. Further, Ex. 1067 does not comply with the Board’s rules governing the form of evidence. 37 C.F.R. § 42.63(d)(1)(ii).

3. Ex. 1068 - “Mac Dev Center – Apple Developer Webpages (Archive.org: Apr. 14, 2010)”

Patent Owner objects to Ex. 1068 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* Fed. R. Evid. 801-807. Patent Owner objects to Ex. 1068 because it is not sufficiently relevant, and any relevance is outweighed by the risks of confusion, substantial danger of unfair prejudice, and/or misleading the fact finder. *See* Fed. R. Evid. 401-403. Ex. 1068 is cited nowhere in the Reply. Further, Ex. 1068 does not comply with the Board’s rules governing the form of evidence. 37 C.F.R. § 42.63(d)(1)(ii).

4. Ex. 1069 - “Apple Inc., Mac OS X Technology Overview (Aug. 14, 2009) (Archive.org: Nov. 13, 2010)”

Patent Owner objects to Ex. 1069 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* Fed. R. Evid. 801-807. Patent Owner objects to Ex. 1069 because it is not sufficiently relevant, and any relevance is outweighed by the risks of confusion, substantial danger of unfair prejudice, and/or misleading the fact finder. *See* Fed. R. Evid. 401-403. Further, Ex. 1069 does not comply with the Board’s rules governing the form of evidence. 37 C.F.R. §

42.63(d)(1)(ii).

5. Ex. 1070 - “Apple Inc., *Bundle Programming Guide* (July 14, 2009) (Archive.org: May 25, 2010)”

Patent Owner objects to Ex. 1070 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* Fed. R. Evid. 801-807. Patent Owner objects to Ex. 1070 because it is not sufficiently relevant, and any relevance is outweighed by the risks of confusion, substantial danger of unfair prejudice, and/or misleading the fact finder. *See* Fed. R. Evid. 401-403. Further, Ex. 1070 does not comply with the Board’s rules governing the form of evidence. 37 C.F.R. § 42.63(d)(1)(ii).

6. Ex. 1071 - “Apple Inc., *Resource Programming Guide* (Jan. 6, 2009) (Archive.org: Jan. 14, 2010)”

Patent Owner objects to Ex. 1071 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* Fed. R. Evid. 801-807. Patent Owner objects to Ex. 1071 because it is not sufficiently relevant, and any relevance is outweighed by the risks of confusion, substantial danger of unfair prejudice, and/or misleading the fact finder. *See* Fed. R. Evid. 401-403. Further, Ex. 1071 does not comply with the Board’s rules governing the form of evidence. 37 C.F.R. § 42.63(d)(1)(ii).

7. Ex. 1072 - “Internet Archive Extended URLs and Corresponding Screen Shots”

Patent Owner objects to Ex. 1072 as hearsay offered for a hearsay purpose

and to which no valid exception applies. *See* Fed. R. Evid. 801-807. Patent Owner objects to Ex. 1072 as not authenticated and not self-authenticating. *See* Fed. R. Evid. 901-902. Petitioner provides no authenticating declaration explaining what Ex. 1072 is, how it was acquired, or how it was made. Patent Owner objects to Ex. 1072 as it contains reproductions of purported screenshots in a PDF rather than the original screenshots. *See* Fed. R. Evid. 1002. Patent Owner objects to Ex. 1072 because it is not sufficiently relevant, and any relevance is outweighed by the risks of confusion, substantial danger of unfair prejudice, and/or misleading the fact finder. *See* Fed. R. Evid. 401-403. Ex. 1072 is cited nowhere in the Reply. Further, Ex. 1072 does not comply with the Board’s rules governing the form of evidence. 37 C.F.R. § 42.63(d)(1)(ii).

8. Ex. 1073 - “Install Disk Screen Shots”

Patent Owner objects to Ex. 1073 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* Fed. R. Evid. 801-807. Patent Owner objects to Ex. 1073 as not authenticated and not self-authenticating. *See* Fed. R. Evid. 901-902. Patent Owner objects to Ex. 1073 as it contains reproductions of purported screenshots in a PDF rather than the original screenshots or the original underlying software program that is purportedly depicted. *See* Fed. R. Evid. 1002. Patent Owner objects to Ex. 1073 because it is not sufficiently relevant, and any relevance is outweighed by the risks of confusion, substantial danger of unfair

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