

**UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD**

APPLE INC.,
Petitioner

v.

BILLJCO LLC,
Patent Owner

CASE: IPR2022-00131
U.S. PATENT NO. 8,639,267

**PATENT OWNER'S MOTION TO STRIKE
SUPPLEMENTAL DECLARATION OF THOMAS LA PORTA (EX1012)
AND PETITIONER'S REPLY**

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TABLE OF AUTHORITIES

Cases:

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<i>Ariosa Diagnostics v. Verinata Health, Inc.</i> , 805 F.3d 1359 (Fed. Cir. 2015)	4, 8
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<i>Bricklayers & Trowel Trades Int'l Pension Fund v. Credit Suisse Secs. (USA) L.L.C.</i> , 752 F.3d 82, 92 (1st Cir. 2014)	10
<i>Caterpillar Inc. v. Deere & Co.</i> , 224 F.3d 1374, 1379 (Fed. Cir. 2000)	9
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<i>Delaware Valley Floral Gp., Inc. v. Shaw Rose Nets, LLC</i> , 597 F.3d 1374 (Fed.Cir. 2010)	4
<i>EEOC v. Freeman</i> , 778 F.3d 463, 469 (4th Cir. 2015)	10
<i>Fail-Safe, LLC v. A.O. Smith Corp.</i> , 744 F.Supp.2d 870, 891 (E.D.Wis.2010)	11
<i>Gemtron Corp. v. Saint-Gobain Corp.</i> , 694 F.3d 1312 (Fed.Cir. 2014)	4, 13
<i>Greater New Orleans Fair Hous. Action Ctr. v. U.S. Dep't of Hous. & Urban Dev.</i> , 639 F.3d 1078 (D.C. Cir. 2011)	10

<i>IMS Tech., Inc. v. Haas Automation, Inc.</i> , 206 F.3d 1422 (Fed. Cir. 2000)	9
<i>In re Bextra & Celebrex Mktg. Sales Practices & Prod. Liab. Litig.</i> , 524 F.Supp.2d 1166 (N.D.Cal.2007).....	11
<i>Innogenetics, N.V. v. Abbott Labs.</i> , 694 F.3d 1312 (Fed.Cir. 2014)	4
<i>Intelligent Bio-Sys., Inc. v. Illumina Cambridge Ltd.</i> , 821 F.3d 1359 (Fed. Cir. 2016)	3
<i>Kemco Sales, Inc. v. Control Papers Co.</i> , 208 F.3d 1352 (Fed. Cir. 2000)	9
<i>Quest Integrity USA, LLC v. Cokebusters USA Inc.</i> , 924 F.3d 1220 (Fed. Cir. 2019)	4
<i>SPTS Techs. Ltd. v. Plasma-Therm LLC</i> , No. IPR2018-00618, 2019 WL 4020200 (PTAB Aug. 26, 2019)	4, 11
<i>VirnetX, Inc. v. Cisco Systems, Inc.</i> , 767 F.3d 1308 (Fed.Cir. 2014)	4, 9, 13
<i>Wasica Fin. GmbH v. Cont'l Auto. Sys., Inc.</i> , 853 F.3d 1272 (Fed. Cir. 2017)	3, 4, 10

Other Authority:

Patent Trial and Appeal Board Consolidated Trial Practice Guide November 2019	passim
35 U.S.C. § 312(a)(3)	2, 3
37 C.F.R § 42.20	2
37 C.F.R. § 42.23	3

37 C.F.R. § 42.104 3
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