

Paper No. \_\_\_\_

**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.

Petitioner

v.

MEMORYWEB, LLC

Patent Owner

Patent No. 10,423,658

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*Inter Partes* Review No. IPR2022-00221

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**PATENT OWNER'S OBJECTIONS TO EVIDENCE**

Patent Owner hereby submits objections to evidence pursuant to 37 C.F.R. § 42.64(b)(1). 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. 1003 - “Declaration of Dr. Loren Terveen regarding U.S. Patent No. 10,423,658”**

Patent Owner objects to paragraphs 64, 66, 72, 73, 89, 90, 95, 100 and 165 of Ex. 1003 under FRE 703 as these paragraphs rely on Exhibits 1020, 1022, 1023, 1024, 1042, 1043, which Patent Owner objects to as inadmissible evidence.

**2. Ex. 1020 - “Tim Grey, Adobe Photoshop Lightroom Workflow: The Digital Photographer's Guide (2007)”**

Patent Owner objects to Ex. 1020 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* Fed. R. Evid. 801-807. Ex. 1020 has not been authenticated and is not self-authenticating. *See* Fed. R. Evid. 901-902. Petitioner provides no authenticating declaration explaining what Ex. 1020 is, how it was acquired, or how it was made. Patent Owner objects to Ex. 1020 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.

**3. Ex. 1022 - Stephen Shankland, “What’s the best Web site for geotagged photos?” CNET (Mar. 18, 2009)**

Patent Owner objects to Ex. 1022 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See Fed. R. Evid.* 801-807. Ex. 1022 has not been authenticated and is not self-authenticating. *See Fed. R. Evid.* 901-902. Petitioner provides no authenticating declaration explaining what Ex. 1022 is, how it was acquired, or how it was made. Patent Owner objects to Ex. 1022 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.

**4. Ex. 1023 - Panoramio, “Embedding a Panoramio map into your web page” (Archive.org: Mar. 28, 2010)**

Patent Owner objects to Ex. 1023 as lacking authentication, and as hearsay being offered for a hearsay purpose and to which no valid exception applies. Ex. 1023 has not been authenticated and is not self-authenticating. *See Fed. R. Evid.* 801-807, 901-902. Ex. 1023 purports to be an “archived copy” of a website, but declines to offer an effective declaration or other foundational evidence or facts relating to Ex. 1023 or the website. *See Fed. R. Evid.* 901; IPR2013-00578 *Neste Oil Oyj v. REG Synthetic Fuels, LLC* (Paper 53, March 12, 2015) (“Neste has not provided the testimony of any witness with personal knowledge of the websites depicted in the printouts; nor do we have any other basis for concluding that the

contents of the website are authentic. For this reason, [the challenged Wayback Machine exhibits] lack authentication and are inadmissible.”).

**5. Ex. 1024 - Shu-Wai Chow, PHP Web 2.0 Mashup Projects, Packt Publishing (2007)**

Patent Owner objects to Ex. 1024 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* Fed. R. Evid. 801-807. Ex. 1024 has not been authenticated and is not self-authenticating. *See* Fed. R. Evid. 901-902. Petitioner provides no authenticating declaration explaining what Ex. 1024 is, how it was acquired, or how it was made. Patent Owner objects to Ex. 1024 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.

**6. Ex. 1042 Woody Leonhard, Windows Vista All-in-One Desk Reference for Dummies (2007)**

Patent Owner objects to Ex. 1042 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* Fed. R. Evid. 801-807. Ex. 1024 has not been authenticated and is not self-authenticating. *See* Fed. R. Evid. 901-902. Petitioner provides no authenticating declaration explaining what Ex. 1042 is, how it was acquired, or how it was made. Patent Owner objects to Ex. 1042 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.

**7. Ex. 1043 - Andy Rathbone, Windows Vista for Dummies (2007)**

Patent Owner objects to Ex. 1043 as hearsay offered for a hearsay purpose and to which no valid exception applies. *See* Fed. R. Evid. 801-807. Ex. 1043 has not been authenticated and is not self-authenticating. *See* Fed. R. Evid. 901-902. Petitioner provides no authenticating declaration explaining what Ex. 1043 is, how it was acquired, or how it was made. Patent Owner objects to Ex. 1043 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.

Respectfully submitted,

Dated: August 15, 2022

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