

Filed: September 11, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC., and APPLE INC.,
Petitioner,

v.

SMART MOBILE TECHNOLOGIES LLC,
Patent Owner

Case IPR2022-01249
Patent 9,019,946 B1

PATENT OWNER'S OBJECTIONS PURSUANT TO 37 C.F.R. § 42.64(b)(1)

Pursuant to 37 C.F.R. § 42.64(b)(1) and the Federal Rules of Evidence (“FRE”), Patent Owner Smart Mobile Technologies LLC hereby objects to the following documents submitted by Petitioner Samsung Electronics Co., LTD., Samsung Electronics America, Inc., and Apple, Inc.

Nothing in this paper should be construed as an admission that any rights of Patent Owner would have been waived or forfeited had the paper or any objection herein not been filed, or that 37 C.F.R. § 42.64(b) applies to any of the objections herein if § 42.64(b) would not otherwise apply. The objections herein are premised upon § 42.64 potentially being determined to apply to the document in question, and are submitted solely to preserve the rights of Patent Owner should § 42.64(b) be determined to apply.

1. Exhibit 1051

Under the Trial Practice Guide, the testimony in this exhibit is untimely because it is relied upon to establish Petition’s case-in-chief and could have been submitted with the Petition. Under FRE 602/701/801/802 and 37 C.F.R. § 42.61, this document includes testimony that is not shown to be based on first-hand knowledge including of how relied-upon data was generated, is based on speculation, and constitutes and contains inadmissible hearsay. Under FRE 401/402/403/702, this document includes testimony not relevant to the instituted review, because, among other things, it has not been shown that the purportedly

expert declarant is qualified to testify competently regarding the matters the opinions are said to address, or that the declarant's testimony is based on sufficient facts or data or arrived at by reliable principles, procedures, or methods reliably applied to the facts of this case, or that the declarant's opinion will assist the trier of fact to understand the evidence or to determine any fact in issue and does not have a greater potential to mislead than to enlighten. Under FRE 401/705 and 37 C.F.R. § 42.65, this document does not disclose underlying facts and data. Under FRE 401/705 and 37 C.F.R. § 42.65, this document includes testimony on patent law and practice.

2. Exhibit 1052

Under the Trial Practice Guide, this exhibit is untimely because it is relied upon to establish Petition's case-in-chief and could have been submitted with the Petition. Under FRE 401/402/403, the exhibit is also inadmissible as irrelevant because, among other things, they do not form a basis of the instituted grounds, and their probative values are outweighed by other considerations including prejudice, confusion, and waste of time.

3. Exhibit 1054

Under FRE 401/402/403, this document is inadmissible as irrelevant because, among other things, it relates to another matter, a different patent, and different petition, and its probative value, if any, is outweighed by other

considerations including prejudice, confusion, and waste of time. Under FRE 106/1001, 35 U.S.C. § 312(a)(3) & (5), and 37 C.F.R. § 42.51(b)(1), this document is incomplete and is not a copy which accurately reproduces the original.

4. Exhibit 1055

Under FRE 401/402/403, this document is inadmissible as irrelevant because, among other things, it relates to another matter, a different patent, and different petition, and its probative value, if any, is outweighed by other considerations including prejudice, confusion, and waste of time.

5. Exhibit 1056

Under FRE 401/402/403, this document is inadmissible as irrelevant because, among other things, it is improperly incorporated by reference, is not relied upon, or cited by Petitioner in its Petition or Reply, it does not form a basis of the instituted grounds, and its probative value is outweighed by other considerations including prejudice, confusion, and waste of time. Under FRE 801/802, to the extent this document is relied upon for the truth of the matter asserted, this document constitutes and contains inadmissible hearsay. Under the Trial Practice Guide, this exhibit is untimely because it is relied upon to establish Petition's case-in-chief and could have been submitted with the Petition.

6. Exhibits 1058-1060

Under FRE 401/402/403, these documents are inadmissible as irrelevant because, among other things, they are not shown to be contemporaneous with the claimed priority date of the patent at issue, do not form a basis of the instituted grounds, and their probative values are outweighed by other considerations including prejudice, confusion, and waste of time. Under FRE 901, these documents are inadmissible because they have not been shown to be authenticated or identified. Under FRE 801/802, to the extent these documents are relied upon for the truth of the matter asserted, these documents constitute and contain inadmissible hearsay. Under the Trial Practice Guide, these exhibits are untimely because they are relied upon to establish Petition's case-in-chief and could have been submitted with the Petition.

7. Exhibits 1061-1062

Under the Trial Practice Guide, these exhibits are untimely because they are relied upon to establish Petition's case-in-chief and could have been submitted with the Petition.

8. Exhibits 1063-1065

Under FRE 401/402/403, these documents are inadmissible as irrelevant because, among other things, they are not relied upon or cited by Petitioner in its Petition, they do not form a basis of the instituted grounds, and their probative values are outweighed by other considerations including prejudice, confusion, and

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