

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LENOVO (UNITED STATES) INC. and
MOTOROLA MOBILITY LLC,
Petitioners

v.

THETA IP, LLC,
Patent Owner

IPR2023-00698
Patent No. 10,524,202 B2

**PETITIONERS' OBJECTIONS TO EVIDENCE SUBMITTED WITH
PATENT OWNER'S RESPONSE**

I. INTRODUCTION

In accordance with 37 C.F.R. § 42.64(b)(1), Lenovo (United States) Inc. and Motorola Mobility LLC (collectively, “Petitioners”) hereby submit the following objections to Theta IP, LLC’s (“Patent Owner”) Exhibits as indicated below, and any reference thereto/reliance thereon, without limitation. Petitioners’ objections below apply the Federal Rules of Evidence (“F.R.E.”) as required by 37 C.F.R. § 42.62 in connection with the above-captioned *inter partes* review (IPR) proceeding of U.S. Patent No. 10,524,202 B2 (“the ’202 patent”). Petitioners’ objections apply equally to Patent Owner’s reliance on these exhibits in any subsequently-filed documents. These objections are timely, having been filed and served within 5 business days of the filing and service of Patent Owner’s Response dated January 30, 2024 (Paper 15).

The following objections apply to the Exhibits indicated below as they are actually presented by Patent Owner in the context of Patent Owner’s Response Under 37 C.F.R. § 42.120 (“Response”) and not in the context of any other substantive argument on the merits of the instituted grounds in this proceeding. Petitioners expressly assert, reserve, and otherwise do not waive any other objections that would be applicable here.

II. OBJECTIONS TO EXHIBITS 2017, 2018, 2020, AND 2021 AS INADMISSIBLE HEARSAY

Patent Trial and Appeal Board (the “Board”) proceedings are governed by the Federal Rules of Evidence. *See* 37 C.F.R. § 42.62(a). Rules 801-807 of the Federal Rules of Evidence govern the admissibility of hearsay, which Rule 801 defines as, “a statement that: (1) the declarant does not make while testifying at the current trial or hearing; and (2) a party offers in evidence to prove the truth of the matter asserted in the statement.” F.R.E. 801(c). Absent the applicability of an exception to the rule against hearsay, hearsay is not admissible. F.R.E. 802; *CaptionCall, L.L.C. v. Ultratec, Inc.*, IPR2015-01889, Pap. 119 at 15-18 (PTAB Apr. 11, 2017) (granting motion to exclude hearsay evidence).

Petitioners object to Exhibits 2017, 2018, 2020, and 2021 under the Federal Rules of Evidence because these Exhibits include inadmissible hearsay. Each of Exhibits 2017, 2018, 2020, and 2021 includes evidence that is inadmissible hearsay, because they contain (1) statements by non-declarants in the current proceeding, (F.R.E. 801(c)(1)), (2) which are offered to prove the truth of the matter asserted therein, (F.R.E. 801(c)(2)). Petitioners also object to Exhibits 2017, 2018, 2020, and 2021 on the basis of inadmissible hearsay to the extent that they are relied on by Patent Owner’s declarant in Exhibit 2015.

III. OBJECTIONS TO EXHIBITS 2017, 2018, 2020, AND 2021 FOR LACK OF AUTHENTICATION

Petitioners further object to Exhibits 2017, 2018, 2020, and 2021 under Rule 901 of the Federal Rules of Evidence because these Exhibits lack authentication.

IV. OBJECTIONS TO EXHIBITS 2015 AND 2019 AS NOT RELIED ON IN THE PATENT OWNER'S PRELIMINARY RESPONSE

Petitioners object to Exhibits 2015 (*e.g.*, ¶¶ 1-47, 49-53, 59, 67, and 80-81) and 2019 under Rules 401-403 of the Federal Rules of Evidence to the extent Patent Owner does not rely on the identified portions of Exhibit 2015 and/or any portions of Exhibit 2019 in the Response.

V. OBJECTIONS TO EXHIBITS 2017, 2018, 2019, 2020, AND 2021 AS NOT RELEVANT

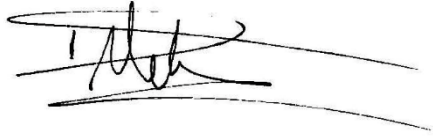
Petitioners object to Exhibits 2017, 2018, 2019, 2020, and 2021 under Rules 401-403 of the Federal Rules of Evidence to the extent these Exhibits are not relevant to issues in this proceeding, at least because the content of the Exhibits lacks a nexus to the grounds of invalidity upon which the Board has instituted *inter partes* review.

VI. OTHER OBJECTIONS TO EXHIBIT 2015

Petitioners objects to Exhibit 2015 on the same grounds mentioned above in Sections II to V to the extent Exhibit 2015 relies on the exhibits mentioned in Sections II to V. Petitioners further object to Exhibit 2015 to the extent the opinions

set forth therein rely upon documents and/or other materials not produced to
Petitioners.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Melwani', with a horizontal line drawn through it.

Dated: February 6, 2024

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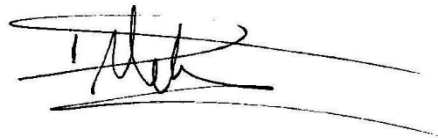
CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, the undersigned hereby certifies that this
“PETITIONERS’ OBJECTIONS TO EVIDENCE SUBMITTED WITH PATENT
OWNER’S RESPONSE” was served by filing this document through the Patent
Trial and Appeal Case Tracking System (P-TACTS) and via e-mail to the
following attorneys of record for the Patent Owner listed below:

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Dated: February 6, 2024

Respectfully submitted,



By: _____
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