

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ALIVECOR, INC.,
Petitioner

v.

APPLE INC.,
Patent Owner

Case No. IPR2023-00950

U.S. Patent No. 10,076,257 B2

**PETITIONER'S OBJECTIONS TO EVIDENCE
SERVED APRIL 11, 2024**

Pursuant to 37 C.F.R. § 42.64(b), Petitioner AliveCor, Inc. (“AliveCor” or “Petitioner”) respectfully asserts the following objections to the evidence proffered with Patent Owner’s Response (“POR”) and Contingent Motion to Amend filed by Patent Owner Apple Inc. (“Apple” or “Patent Owner”) regarding the claims of U.S. Patent No. 10,076,257 (“the ’257 patent”). The Federal Rules of Evidence (“FRE”) apply to these proceedings according to the provisions of 37 C.F.R. § 42.62(a), and these rules, along with relevant case law and PTAB Rules, form the basis of objections contained herein. Petitioner’s objections apply equally to Patent Owner’s reliance on or citation to any objected evidence in its papers, including expert declarations. These objections are being served and filed within 5 business days from the service of evidence on April 11, 2024.

Evidence	Description
Ex. APPLE- 2004	Exhibit APPLE-2004 is a second declaration of Dr. Thomas Kenny. Petitioner objects to ¶¶ 1–21 and 171-76 of this exhibit under FRE 402 and 403 because they are not referenced or explained in Patent Owner’s Response or Contingent Motion to Amend.

Evidence	Description
Ex. APPLE- 2005	Exhibit APPLE-2005 is a purported definition of “embedded” from Wiley Electrical and Electronics Engineering Dictionary, IEEE Press, Wiley-Interscience (2004). Petitioner objects to this exhibit as not authenticated, e.g., under FRE 901. For instance, Patent Owner has not produced evidence sufficient to support a finding that the referenced exhibit is what Patent Owner claims it is. Petitioner objects to this exhibit as irrelevant under FRE 402, and prejudicial, misleading, confusing, and/or a waste of time under FRE 403 because it has no tendency to make any consequential fact more or less probable.
Ex. APPLE- 2006	Exhibit APPLE-2006 is Finland Patent No. 119716 B (Application No. 20002304). Petitioner objects to this exhibit as irrelevant under FRE 402, and prejudicial, misleading, confusing, and/or a waste of time under FRE 403 because it has no tendency to make any consequential fact more or less probable.
Ex. APPLE- 2007	Exhibit APPLE-2007 is purportedly a certified translation of Finland Patent No. 119716 B (Application No. 20002304). Petitioner objects to this exhibit as not authenticated, e.g., under FRE 901. For instance, Patent Owner has not produced evidence sufficient to support a finding that the referenced exhibit is what Patent Owner claims it is. Petitioner objects to this exhibit as irrelevant under FRE 402, and prejudicial, misleading, confusing, and/or a waste of time under FRE 403 because it has no tendency to make any consequential fact more or less probable.

Evidence	Description
Ex. APPLE- 2008	Exhibit APPLE-2008 is a purported definition of “bezel” from Wiley Electrical and Electronics Engineering Dictionary, IEEE Press, Wiley-Interscience (2004). Petitioner objects to this exhibit as not authenticated, e.g., under FRE 901. For instance, Patent Owner has not produced evidence sufficient to support a finding that the referenced exhibit is what Patent Owner claims it is. Petitioner objects to this exhibit as irrelevant under FRE 402, and prejudicial, misleading, confusing, and/or a waste of time under FRE 403 because it has no tendency to make any consequential fact more or less probable.
Ex. APPLE- 2009	Exhibit APPLE-2009 is a purported definition of “bezel” from Merriam-Webster’s Collegiate Dictionary, Eleventh Edition (2006). Petitioner objects to this exhibit as not authenticated, e.g., under FRE 901. For instance, Patent Owner has not produced evidence sufficient to support a finding that the referenced exhibit is what Patent Owner claims it is. Petitioner objects to this exhibit as irrelevant under FRE 402, and prejudicial, misleading, confusing, and/or a waste of time under FRE 403 because it has no tendency to make any consequential fact more or less probable.

Evidence	Description
Ex. APPLE- 2010	Exhibit APPLE-2010 is a purported definition of “bezel” from McGraw-Hill Dictionary of Scientific and Technical Terms, Sixth Edition (2002). Petitioner objects to this exhibit as not authenticated, e.g., under FRE 901. For instance, Patent Owner has not produced evidence sufficient to support a finding that the referenced exhibit is what Patent Owner claims it is. Petitioner objects to this exhibit as irrelevant under FRE 402, and prejudicial, misleading, confusing, and/or a waste of time under FRE 403 because it has no tendency to make any consequential fact more or less probable.
Ex. APPLE- 2014	Exhibit APPLE-2014 is a purported definition of “membrane” from ASM Materials Engineering Dictionary, ASM International (2006). Petitioner objects to this exhibit as not authenticated, e.g., under FRE 901. For instance, Patent Owner has not produced evidence sufficient to support a finding that the referenced exhibit is what Patent Owner claims it is. Petitioner objects to this exhibit as irrelevant under FRE 402, and prejudicial, misleading, confusing, and/or a waste of time under FRE 403 because it has no tendency to make any consequential fact more or less probable.
Ex. APPLE- 2015	Exhibit APPLE-2015 is a purported definition of “membrane” from Collins English Dictionary, HarperCollins Publishers (1998). Petitioner objects to this exhibit as not authenticated, e.g., under FRE 901. For instance, Patent Owner has not produced evidence sufficient to support a finding that the referenced exhibit is what Patent Owner claims it is. Petitioner objects to this exhibit as irrelevant under FRE 402, and prejudicial, misleading, confusing, and/or a waste of time under FRE 403 because it has no tendency to make any consequential fact more or less probable.

Date: April 18, 2024

By: / Christopher TL Douglas /
Christopher TL Douglas

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§42.6(e), 42.105, the undersigned hereby certifies that true and correct copies of the above-captioned PETITIONER'S OBJECTIONS TO EVIDENCE SERVED APRIL 11, 2024 was served via electronic mail to the following attorneys of record for Patent Owner:

W. Karl Renner
Jeremy Monaldo
Grace Kim
Andrew B. Patrick
Patrick J. Bisenius
IPR50095-0157IP1@fr.com
Fish & Richardson P.C.
60 South Sixth Street, Suite 3200
Minneapolis, MN 55402
Tel: 202-783-5070
Fax: 877-769-7945

Date: April 18, 2024

By: / Christopher TL Douglas /
Christopher TL Douglas