

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LG ELECTRONICS INC.,
Petitioner

v.

PANTECH CORPORATION,
Patent Owner

Case IPR2023-01271
Patent No. 7,283,839

**PATENT OWNER'S OBJECTIONS TO PETITIONER'S PRE-
INSTITUTION EVIDENCE PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Under the Federal Rules of Evidence and 37 C.F.R. § 42.64, Patent Owner Pantech Corporation (“Patent Owner”) timely objects to evidence submitted by LGE Electronics (“Petitioner”) prior to institution of Inter Partes Review IPR2023-01271. Patent Owner serves Petitioner with these objections to provide notice that Patent Owner may move to exclude the challenged exhibits under 37 C.F.R. § 42.64(c) unless Petitioners cure the defects associated with the challenged exhibits identified below.

Ex. 1003 – Declaration of Vijay Madiseti

Patent Owner objects to this exhibit under Fed. R. Evid. 702 and/or 802 as Dr. Madiseti has not yet been made available for cross-examination during a deposition.

Patent Owner objects to this exhibit because it provides expert testimony that does not disclose the underlying facts or data on which the opinion is based in violation of at least 37 C.F.R. § 42.65, *see, e.g.*, Ex. 1003 at ¶¶ 75, 85, 107, 140, 147, 153, 158, and 170, and are therefore irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403.

Patent Owner objects to this exhibit because it contains arguments that are incorporated by reference in the Petition in violation of at least 37 C.F.R. §

42.6(a)(3), *see, e.g.*, Petition at 12, 25, 27, 28, 39-43, 84-86, 88, 89, 92, and 93, and are therefore irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403.

Patent Owner objects to this exhibit because the paragraphs in the exhibit that are not cited in the Petition are irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403. Any attempt to rely on any of these paragraphs would violate at least 37 C.F.R. § 42.6(a)(3).

Patent Owner objects to this exhibit as constituting hearsay under Fed. R. Evid. 801(c) and thus being inadmissible under Fed. R. Evid. 802 because it offers the statements of another (e.g., Nathaniel E. Frank-White) in evidence to prove the truth of the matter asserted in the statements. *E.g.*, Ex. 1003 at ¶ 58. Yet, Petitioner has not offered any evidence that such statements in Ex. 1003 fall within any exception to the rule against hearsay of Fed. R. Evid. 802.

Patent Owner objects to Ex. 1003 as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403 because Ex. 1003 is inadmissible as explained above.

Ex. 1009 – RFC2822

Patent Owner objects to this document under Fed. R. Evid. 901(a) as Petitioner has not “produced sufficient evidence to support a finding that the item is what the proponent claims it is.” For example, Petitioner has not provided sufficient evidence pursuant to Fed. R. Evid. 901(b) or otherwise satisfying the requirement of Fed. R. Evid. 901(a). The Bradford Declaration (Ex. 1035) does not establish that Ex. 1009 is the same document referred to in the Frank-White Declaration (Ex. 1010). Furthermore, neither the Bradford Declaration nor the Frank-White Declaration is sufficient to show that Ex. 1009 was publicly available as of the date alleged in the Petition.

Patent Owner objects to Ex. 1009 as hearsay under Fed. R. Evid. 801(c) and thus inadmissible under Fed. R. Evid. 802. For example, Petitioner relies on Ex. 1009 for the truth of the matter asserted therein. See, e.g., Petition at 5-6. Yet Petitioners have not offered sufficient evidence that Ex. 1009 falls within any exception of the rule against hearsay under Fed. R. Evid. 802.

Patent Owner objects to Ex. 1009 as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403 because Ex. 1009 is inadmissible as explained above.

Ex. 1010 – Declaration of Nathaniel E. Frank-White

Patent Owner objects to this document under Fed. R. Evid. 901(a) as Petitioner has not “produced sufficient evidence to support a finding that the item is what the proponent claims it is.” For example, Petitioner has not provided sufficient evidence pursuant to Fed. R. Evid. 901(b) or otherwise satisfying the requirement of Fed. R. Evid. 901(a).

Patent Owner objects to Ex. 1010 as hearsay under Fed. R. Evid. 801(c) and thus inadmissible under Fed. R. Evid. 802. For example, Petitioner relies on Ex. A of Ex. 1010 for the truth of the matter asserted therein. See, e.g., Petition at 5-6, 91-93. Yet Petitioners have not offered sufficient evidence that Ex. 1010 falls within any exception of the rule against hearsay under Fed. R. Evid. 802.

Patent Owner objects to Ex. 1010 as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403 because Ex. 1010 is inadmissible as explained above.

Ex. 1011 – U.S. 6,359,877 (Rathonyi)

Patent Owner objects to this document as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or

a waste of time under Fed. R. Evid. 403. Petitioner has not relied on Ex. 1011 for any fact that is of consequence in determining this action.

Ex. 1012 – US 2003/0229672 (Kohn)

Patent Owner objects to this document as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403. Petitioner has not relied on Ex. 1012 for any fact that is of consequence in determining this action.

Ex. 1013 – US 2003/0220978 (Rhodes)

Patent Owner objects to this document as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403. Petitioner has not relied on Ex. 1013 for any fact that is of consequence in determining this action.

Ex. 1014 – US 2005/0275633 (Varanda)

Patent Owner objects to this document as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403. Petitioner has not relied on Ex. 1014 for any fact that is of consequence in determining this action.

Ex. 1015 – US 2004/0137884 (Engstrom)

Patent Owner objects to this document as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403. Petitioner has not relied on Ex. 1015 for any fact that is of consequence in determining this action.

Ex. 1016 – WO 2004/056137 A1 (Nielson)

Patent Owner objects to this document as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403. Petitioner has not relied on Ex. 1016 for any fact that is of consequence in determining this action.

Ex. 1017 – US 2001/0021649 (Kinnunen)

Patent Owner objects to this document as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403. Petitioner has not relied on Ex. 1017 for any fact that is of consequence in determining this action.

Ex. 1018 – RFC2779

Patent Owner objects to this exhibit under Fed. R. Evid. 901(a) as Petitioner has not “produced sufficient evidence to support a finding that the item is what the proponent claims it is.” For example, Petitioner alleges a publication date but has

not provided sufficient evidence pursuant to Fed. R. Evid. 901(b) or otherwise satisfying the requirement of Fed. R. Evid. 901(a).

Patent Owner objects to Ex. 1018 as hearsay under Fed. R. Evid. 801(c) and thus inadmissible under Fed. R. Evid. 802. For example, Petitioner relies on Ex. 1018 for the truth of the matter asserted therein. See, e.g., Petition at 28. Yet Petitioners have not offered sufficient evidence that Ex. 1018 falls within any exception of the rule against hearsay under Fed. R. Evid. 802.

Patent Owner objects to Ex. 1018 as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403 because Ex. 1018 is inadmissible as explained above.

Ex. 1019 – 3GPP TS 24.011 v5.2.0

Patent Owner objects to this exhibit under Fed. R. Evid. 901(a) as Petitioner has not “produced sufficient evidence to support a finding that the item is what the proponent claims it is.” For example, Petitioner alleges a publication date but has not provided sufficient evidence pursuant to Fed. R. Evid. 901(b) or otherwise satisfying the requirement of Fed. R. Evid. 901(a).

Patent Owner objects to Ex. 1019 as hearsay under Fed. R. Evid. 801(c) and thus inadmissible under Fed. R. Evid. 802. For example, Petitioner relies on Ex.

1019 for the truth of the matter asserted therein. See, e.g., Petition at 28, 93. Yet Petitioners have not offered sufficient evidence that Ex. 1019 falls within any exception of the rule against hearsay under Fed. R. Evid. 802.

Patent Owner objects to Ex. 1019 as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403 because Ex. 1019 is inadmissible as explained above.

Ex. 1020 – 3GPP TS 23.140 v6.4.0

Patent Owner objects to this exhibit under Fed. R. Evid. 901(a) as Petitioner have not “produced sufficient evidence to support a finding that the item is what the proponent claims it is.” For example, Petitioner alleges a publication date but has not provided sufficient evidence pursuant to Fed. R. Evid. 901(b) or otherwise satisfying the requirement of Fed. R. Evid. 901(a).

Patent Owner objects to Ex. 1020 as hearsay under Fed. R. Evid. 801(c) and thus inadmissible under Fed. R. Evid. 802. For example, Petitioner relies on Ex. 1020 for the truth of the matter asserted therein. See, e.g., Petition at 28, 93. Yet Petitioners have not offered sufficient evidence that Ex. 1020 falls within any exception of the rule against hearsay under Fed. R. Evid. 802.

Patent Owner objects to Ex. 1020 as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403 because Ex. 1020 is inadmissible as explained above.

Ex. 1021 – WAP MMS Encapsulation Protocol

Patent Owner objects to this exhibit under Fed. R. Evid. 901(a) as Petitioner have not “produced sufficient evidence to support a finding that the item is what the proponent claims it is.” For example, Petitioner alleges a publication date but has not provided sufficient evidence pursuant to Fed. R. Evid. 901(b) or otherwise satisfying the requirement of Fed. R. Evid. 901(a).

Patent Owner objects to Ex. 1021 as hearsay under Fed. R. Evid. 801(c) and thus inadmissible under Fed. R. Evid. 802. For example, Petitioner relies on Ex. 1021 for the truth of the matter asserted therein. See, e.g., Petition at 28, 93. Yet Petitioners have not offered sufficient evidence that Ex. 1021 falls within any exception of the rule against hearsay under Fed. R. Evid. 802.

Patent Owner objects to Ex. 1021 as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403 because Ex. 1021 is inadmissible as explained above.

Ex. 1022 – RFC 1889 RTP - A Transport Protocol for Real-Time Applications

Patent Owner objects to this document under Fed. R. Evid. 901(a) as Petitioner have not “produced sufficient evidence to support a finding that the item is what the proponent claims it is.” For example, Petitioner alleges a publication date but has not provided sufficient evidence pursuant to Fed. R. Evid. 901(b) or otherwise satisfying the requirement of Fed. R. Evid. 901(a).

Patent Owner objects to Ex. 1022 as hearsay under Fed. R. Evid. 801(c) and thus inadmissible under Fed. R. Evid. 802. For example, Petitioner relies on Ex. 1022 for the truth of the matter asserted therein. See, e.g., Petition at 28, 93. Yet Petitioners have not offered sufficient evidence that Ex. 1022 falls within any exception of the rule against hearsay under Fed. R. Evid. 802.

Patent Owner objects to Ex. 1022 as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403 because Ex. 1022 is inadmissible as explained above.

Ex. 1023 – US 2005/0193345 (Klassen)

Patent Owner objects to this document as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or

a waste of time under Fed. R. Evid. 403. Petitioner has not relied on Ex. 1023 for any fact that is of consequence in determining this action.

Ex. 1024 – U.S. 7,383,307 (Kirkland)

Patent Owner objects to this document as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403. Petitioner has not relied on Ex. 1024 for any fact that is of consequence in determining this action.

Ex. 1025 – US 2004/0097248 (Schmidt)

Patent Owner objects to this document as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403. Petitioner has not relied on Ex. 1025 for any fact that is of consequence in determining this action.

Ex. 1026 – U.S. 6,333,973 (Smith)

Patent Owner objects to this document as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403. Petitioner has not relied on Ex. 1026 for any fact that is of consequence in determining this action.

Patent Owner's Objections
To Pre-Institution Evidence
IPR2023-01271

Dated: March 22, 2024

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served electronically via electronic mail (as previously consented to by counsel) on March 22, 2024 on the following counsel of record for Petitioners:

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