

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MASTERCARD INCORPORATED AND MASTERCARD INTERNATIONAL
INCORPORATED,

Petitioner,

v.

OV LOOP, INC.,

Patent Owner.

Case No. IPR2023-01289

Patent 10,032,171

**PETITIONER OBJECTIONS UNDER 37 C.F.R. § 42.64 TO PATENT
OWNER'S EVIDENCE SUBMITTED WITH
PATENT OWNER RESPONSE**

Petitioner Mastercard Incorporated and Mastercard International Incorporated, ("Petitioner"), respectfully submits the following objections to exhibits filed by Patent Owner in conjunction with its Patent Owner Response ("the POR") for Inter Partes Review of U.S. Patent No. 10,032,171 ("the '171 Patent"). These objections are made within five business days from service of the POR and exhibits thereof on June 28, 2024 (see 37 C.F.R. § 42.64(b)(1)). Petitioner reserves the right to present further objections to this or additional evidence submitted by the Patent Owner, as allowed by the applicable rules or other authority, including without limitation upon conclusion of cross-examination of Patent Owner's declarants.

The following chart lists Petitioner's objections to the admissibility of certain documents (identified below) that accompany the POR, and the basis for those objections:

Objected to Exhibit	Basis for Objection
Exhibits 2010 thru 2034 (inclusive), 2036	FRE 401–403: The Exhibit is irrelevant at least because it does not assist the trier of fact in understanding the evidence or determining a fact at issue as of the invention date of the '171 Patent. Moreover, any relevance is outweighed by the

	danger of unfair prejudice to Petitioner if this evidence were admitted. FRE 802: The Exhibit is hearsay. Because no hearsay exception applies, the identified evidence is inadmissible in this proceeding. FRE 901: The Exhibit has not been authenticated. Patent Owner has not provided evidence regarding the origin of the document or whether the document is a true or accurate copy of the webpage purportedly being archived.
Exhibit No. 2009	FRE 702: Dr. Easttom was not a person of ordinary skill in the art ("POSITA") as of the invention date of the '171 Patent, has not been a POSITA since such date, and does not possess the scientific, technical, or other specialized knowledge sufficient to testify as to the knowledge or understanding of a POSITA at the relevant time. His testimony would not help the trier of fact to understand the evidence or to determine a fact in issue. Further, Dr. Easttom's opinions are not based on sufficient facts or data.

	The testimony is not the product of reliable principles and methods and the principles and methods have not been reliably applied to the facts of the case.
Exhibit No. 2009, ¶¶10, 11	FRE 702: Dr. Easttom was not a POSITA as of the invention date of the '171 Patent, has not been a POSITA since such date, and does not possess the scientific, technical, or other specialized knowledge sufficient to testify as to the knowledge or understanding of a POSITA at the relevant time. His testimony would not help the trier of fact to understand the evidence or to determine a fact in issue.
Exhibit No. 2009, ¶¶12-19, 24, 26-30, 33-35, 37-55, 58, 59, 61-79, 81-82, 84-86, 88-99, 101-161, 163-169, 171-200, 202-203, 205-224, 229-241	FRE 401–403: The opinions expressed in this paragraph are irrelevant at least because they do not assist the trier of fact in understanding the evidence or determining a fact at issue as of the invention date of the '171 Patent. Moreover, the opinions expressed in this paragraph are irrelevant because Dr. Easttom does not sufficiently disclose the underlying facts or data upon which they are based, and

	therefore the opinions should be given little to no weight under 37 C.F.R. § 42.65(a). FRE 702: The opinions expressed in these paragraphs do not help the trier of fact understand the evidence or determine a fact at issue, and Dr. Easttom's opinions are not based on sufficient facts or data. The testimony is not the product of reliable principles and methods and the principles and methods have not been reliably applied to the facts of the case.
Exhibit No. 2009, ¶¶12-19, 24, 26-30, 33-35, 37-55, 61-79, 81-82, 84-86, 88-99, 101-161, 163-169, 171-200, 202-203, 205-224, 229-241	FRE 401–403: The opinions expressed in this paragraph are irrelevant at least because they are based on mischaracterizations of the underlying evidence and thus do not assist the trier of fact in understanding the evidence or determining a fact at issue as of the invention date of the '171 Patent and are irrelevant. Therefore, the opinions should be given little to no weight under 37 C.F.R. § 42.65(a). FRE 702: The opinions expressed in these paragraphs do not help the trier of fact understand the evidence or

	determine a fact at issue, and Dr. Easttom's opinions are not based on sufficient facts or data. The testimony is not the product of reliable principles and methods and the principles and methods have not been reliably applied to the facts of the case.
Exhibit No. 2009, ¶¶29, 37, 38, 39, 40, 41, 53, 54, 113, 132, 133, 134, 209, 210, 211, 212	FRE 802: The testimony cites to one or more Exhibits that are hearsay. Because no hearsay exception applies, the identified evidence is inadmissible in this proceeding. FRE 901: The testimony cites to one or more Exhibits that have not been authenticated. Patent Owner has not provided evidence regarding the origin of the document or whether the document is a true or accurate copy of the webpage purportedly being archived.

Date: July 8, 2024

Respectfully submitted,

/s/ Eliot D. Williams

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e) and 42.105(a), this is to certify that I caused to be served a true and correct copy of the foregoing "PETITIONER OBJECTIONS UNDER 37 C.F.R. § 42.64 TO PATENT OWNER'S EVIDENCE SUBMITTED WITH PATENT OWNER RESPONSE" thereto via the PTAB's E2E system and sent via email as detailed below.

Date of service: July 8, 2024

Documents served: PETITIONER OBJECTIONS UNDER 37 C.F.R. § 42.64 TO PATENT OWNER'S EVIDENCE SUBMITTED WITH PATENT OWNER PRELIMINARY RESPONSE

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