UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MICROCHIP TECHNOLOGY INC.,
Petitioner,

v.

APTIV TECHNOLOGIES AG,
Patent Owner.

Patent No. 9,645,962

_____

Inter Partes Review No. IPR2024-00229

PATENT OWNER'S OBJECTION TO EVIDENCE SUBMITTED WITH PETITIONER'S REPLY BRIEF

Patent Owner Aptiv Technologies AG ("Patent Owner" or "Aptiv") hereby objects to the following evidence that was submitted by Petitioner Microchip Technology, Inc. ("Petitioner" or "Microchip") with their Petitioner's Reply Brief ("Reply") on January 17, 2025, in the above-captioned proceeding. In accordance with 37 C.F.R. § 42.64(b)(1), these objections are being timely filed and served within five (5) business days of service of evidence to which these objections are directed.

A. Exhibit 1082 (Independent Claim Language (Houh Depo., Ex. 1082))

Aptiv objects to Exhibit 1082 under F.R.E. 401 as irrelevant and under F.R.E. 403 as duplicative of the original patent documents themselves and unduly prejudicial because the exhibit is not cited or discussed in Microchip's reply brief or the supporting reply declaration of Mr. Welch and is therefore irrelevant to any issue properly before the Board. Because it was not discussed, Aptiv has had no fair opportunity to respond to Microchip's unstated contentions (if any) regarding the same.

B. Exhibit 1083 (Annotated Fig. 4 of Challenged Patents (Houh Depo., Ex. 0001))

Aptiv objects to Exhibit 1083 under F.R.E. 401 as irrelevant and under F.R.E. 403 as unduly prejudicial because the exhibit is not cited or discussed in Microchip's reply brief or the supporting reply declaration of Mr. Welch and is therefore irrelevant to any issue properly before the Board. Because it was not discussed, Aptiv has had no fair opportunity to respond to Microchip's unstated contentions (if any) regarding the same.

C. Exhibit 1084 (Houh Tr. (2024/12/18, Day 1))

Aptiv objects to Exhibit 1084 for the reasons stated on record during the December 18, 2024 deposition of Dr. Henry Houh. Aptiv further objects to this exhibit to the extent that Dr. Houh's testimony pertains to issues not relevant to this proceeding. Dr. Houh provided testimony regarding a number of patents that, while related to the Challenged Patent, contain distinct claims and claim language. To the extent that Dr. Houh's testimony relates to issues unique to one or more of those patents, or unrelated to the Challenged Patent, Aptiv objects to the use of that testimony in the present proceeding as irrelevant, misleading, confusing the issues, and more prejudicial than probative.

D. Exhibit 1085 (Houh Tr. (2024/12/19, Day 2))

Aptiv objects to Exhibit 1084 for the reasons stated on record during the December 18, 2024 deposition of Dr. Henry Houh. Aptiv further objects to this exhibit to the extent that Dr. Houh's testimony pertains to issues not relevant to this proceeding. Dr. Houh provided testimony regarding a number of patents that, while related to the Challenged Patent, contain distinct claims and claim language. To the extent that Dr. Houh's testimony relates to issues unique to one or more of those patents, or unrelated to the Challenged Patent, Aptiv objects to the use of that testimony in the present proceeding as irrelevant, misleading, confusing the issues, and more prejudicial than probative.

E. Exhibit 1086 (Houh Supp. Dec. (EX2019 in IPGR2024-00228) ('420 patent))

Aptiv objects to Exhibit 1086 to the extent that Dr. Houh's testimony pertains to issues not relevant to this proceeding. This declaration was provided by Dr. Houh in reference to the '420 patent and its claims. While the '420 patent is related to the Challenged Patent, it contains distinct claims and claim language. To the extent Dr. Houh's opinions relate to issues unique to the '420 patent, or unrelated to the Challenged Patent, Aptiv objects to the use of those opinions in the

present proceeding as irrelevant, misleading, confusing the issues, and more prejudicial than probative.

F. Exhibit 1088 (Houh Supp. Dec. (EX2019 in IPR2024-00230) ('072 patent))

Aptiv objects to Exhibit 1088 to the extent that Dr. Houh's testimony pertains to issues not relevant to this proceeding. This declaration was provided by Dr. Houh in reference to the '072 patent and its claims. While the '072 patent is related to the Challenged Patent, it contains distinct claims and claim language. To the extent Dr. Houh's opinions relate to issues unique to the '072 patent, or unrelated to the Challenged Patent, Aptiv objects to the use of those opinions in the present proceeding as irrelevant, misleading, confusing the issues, and more prejudicial than probative.

G. Exhibit 1089 (Houh Supp. Dec. (EX2019 in PGR2024-00011) ('643 patent))

Aptiv objects to Exhibit 1089 to the extent that Dr. Houh's testimony pertains to issues not relevant to this proceeding. This declaration was provided by Dr. Houh in reference to the '643 patent and its claims. While the '643 patent is related to the Challenged Patent, it contains distinct claims and claim language. To the extent Dr. Houh's opinions relate to issues unique to the '643 patent, or

unrelated to the Challenged Patent, Aptiv objects to the use of those opinions in the present proceeding as irrelevant, misleading, confusing the issues, and more prejudicial than probative.

H. Exhibit 1090 (Houh Supp. Dec. (EX2019 in IPR2024-00495) ('420 patent))

Aptiv objects to Exhibit 1090 to the extent that Dr. Houh's testimony pertains to issues not relevant to this proceeding. This declaration was provided by Dr. Houh in reference to the '420 patent and its claims. While the '420 patent is related to the Challenged Patent, it contains distinct claims and claim language. To the extent Dr. Houh's opinions relate to issues unique to the '420 patent, or unrelated to the Challenged Patent, Aptiv objects to the use of those opinions in the present proceeding as irrelevant, misleading, confusing the issues, and more prejudicial than probative.

I. Exhibit 1091 (Redline of Houh Supp. Dec. (¶¶52-130) to POR (IPR2024-00228) (420 patent))

Aptiv objects to this exhibit because it is not proper evidence—nor evidence at all. To the extent this exhibit is considered evidence, Patent Owner objects under F.R.E. 403 as it is far more prejudicial than probative. Aptiv further objects to this exhibit under F.R.E. 106 because it is only a partial replication of Dr.

Houh's declaration and creates a "misleading impression created by taking matters out of context." (Advisory Committee Notes to F.R.E 106.)

J. Exhibit 1092 (Redline of Houh Suppl. Dec. (¶¶52-137) to POR (IPR2024-00229) (962 patent))

Aptiv objects to this exhibit because it is not proper evidence—nor evidence at all. To the extent this exhibit is considered evidence, Patent Owner objects under F.R.E. 403 as it is far more prejudicial than probative. Aptiv further objects to this exhibit under F.R.E. 106 because it is only a partial replication of Dr. Houh's declaration and creates a "misleading impression created by taking matters out of context." (Advisory Committee Notes to F.R.E 106.)

K. Exhibit 1093 (Redline of Houh Suppl. Dec. (¶¶52-119) to POR (IPR2024-00230) (072 patent))

Aptiv objects to this exhibit because it is not proper evidence—nor evidence at all. To the extent this exhibit is considered evidence, Patent Owner objects under F.R.E. 403 as it is far more prejudicial than probative. Aptiv further objects to this exhibit under F.R.E. 106 because it is only a partial replication of Dr. Houh's declaration and creates a "misleading impression created by taking matters out of context." (Advisory Committee Notes to F.R.E 106.)

L. Exhibit 1094 (Redline of Houh Suppl. Dec. (¶¶52-119) to POR (PGR2024-00011) (643 patent))

Aptiv objects to this exhibit because it is not proper evidence—nor evidence at all. To the extent this exhibit is considered evidence, Patent Owner objects under F.R.E. 403 as it is far more prejudicial than probative. Aptiv further objects to this exhibit under F.R.E. 106 because it is only a partial replication of Dr. Houh's declaration and creates a "misleading impression created by taking matters out of context." (Advisory Committee Notes to F.R.E 106.)

M. Exhibit 1095 (Redline of Houh Suppl. Dec. (¶¶52-142) to POR (IPR2024-00495) (420 patent))

Aptiv objects to this exhibit because it is not proper evidence—nor evidence at all. To the extent this exhibit is considered evidence, Patent Owner objects under F.R.E. 403 as it is far more prejudicial than probative. Aptiv further objects to this exhibit under F.R.E. 106 because it is only a partial replication of Dr. Houh's declaration and creates a "misleading impression created by taking matters out of context." (Advisory Committee Notes to F.R.E 106.)

N. Exhibit 1096 (Rob Voto LinkedIn profile)

Aptiv objects to Exhibit 1096 as lacking foundation and lacking authentication under F.R.E. 901. Aptiv objects to this exhibit as containing

hearsay to the extent that Microchip attempts to rely on it to prove the truth of any matter described therein under F.R.E. 801 and F.R.E. 802.

O. Exhibit 1097 (Craig Petku LinkedIn profile)

Aptiv objects to Exhibit 1097 as lacking foundation and lacking authentication under F.R.E. 901. Aptiv objects to this exhibit as containing hearsay to the extent that Microchip attempts to rely on it to prove the truth of any matter described therein under F.R.E. 801 and F.R.E. 802.

P. Exhibit 1098 (Craig Petku LinkedIn profile (full experience section)

Aptiv objects to Exhibit 1098 as lacking foundation and lacking authentication under F.R.E. 901. Aptiv objects to this exhibit as containing hearsay to the extent that Microchip attempts to rely on it to prove the truth of any matter described therein under F.R.E. 801 and F.R.E. 802.

Q. Exhibit 1099 (Microchip Application Note AN2374)

Aptiv objects to Exhibit 1099 as lacking foundation and lacking authentication under F.R.E 901. Aptiv objects to this exhibit as containing hearsay to the extent that Microchip attempts to rely on it to prove the truth of any matter described therein under F.R.E 801 and F.R.E 802. Aptiv further objects to Exhibit

1099 as irrelevant under F.R.E. 401 and misleading, confusing the issues, and more prejudicial than probative under F.R.E. 403.

R. Exhibit 1100 (Sept. 8, 2013, Don Perkins Email Chain)

Aptiv objects to Exhibit 1100 under F.R.E. 104 as lacking critical context and F.R.E. 403 as incomplete, misleading, cumulative, confusing the issues and more prejudicial than probative. Aptiv further objects to this exhibit under F.R.E. 602 as speculative and lacking in personal knowledge, and under F.R.E. 801/802 as hearsay without an exception. In offering this exhibit, Microchip relies on an ambiguous hearsay statement purporting to convey the hearsay statement of a third-party. The statement therefore comprises hearsay within hearsay—a particularly problematic issue given the ambiguity of its wording.

S. Exhibit 1102 (Welch Reply)

Aptiv objects to Exhibit 1102 as irrelevant, lacking foundation, assuming facts not in evidence, calling for legal conclusion, and mischaracterizing evidence. Aptiv further objects to Exhibit 1013 to the extent that it includes expert opinions for which the factual bases have not been disclosed, for which Mr. Welch does not have personal knowledge (F.R.E. 602) and to the extent that Mr. Welch's opinions constitute unreliable expert testimony under F.R.E. 702 and 703.

Aptiv further objects to Mr. Welch's reply declaration under Rule 42.23(b) on the basis that it raises novel theories and opinions beyond those raised by Petitioner or Patent Owner. *See* Consolidated Trial Practice Guide (November 2019) at 74; *Apple Inc. v. e-Watch, Inc.*, Case IPR2015-00412 (PTAB May 6, 2016) ("Accepting such belatedly presented new arguments would be unjust to the Patent Owner and we decline to do so."); *Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369-70 (Fed. Cir. 2016).

Aptiv further objects to Mr. Welch's reply declaration under Rule 42.23(b) on the basis that it presents new evidence that could have been presented in a prior filing (*e.g.*, Mr. Welch's initial declaration, Ex. 1013). *See* Consolidated Trial Practice Guide (November 2019) at 74-75 ("It is also improper for a reply to present new evidence (including new expert testimony) that could have been presented in a prior filing, for example newly cited prior art references intended to 'gap-fill' by teaching a claim element that was not present in the prior art presented with the petition.").

T. Exhibit 1103 (Excerpts from *The ART of Electronics*, P Horowitz and W. Hill, Cambridge University Press, 2nd Edition (1989))

Aptiv objects to Exhibit 1103 as lacking foundation and lacking authentication under F.R.E 901. Aptiv objects to this exhibit as containing hearsay to the extent that Microchip attempts to rely on it to prove the truth of any matter

described therein under F.R.E 801 and F.R.E 802. For example, Microchip fails to offer sufficient evidence that Exhibit 1103 was publicly accessible in its presented form as of the alleged publication date.

Aptiv objects to Exhibit 1103 as not being relevant to any issue in this IPR. This exhibit is not relied upon as prior art in the challenged grounds, and thus is irrelevant and/or unduly prejudicial. (See F.R.E 401–403.) In fact, Exhibit 1103 is neither discussed or cited in the Petition at all and is therefore irrelevant to any issue on which trial has been instituted. Because it was not discussed, Aptiv has had no fair opportunity to respond to Microchip's unstated contentions (if any) regarding the same. Accordingly, Exhibit 1103 is irrelevant and its consideration would be unfairly prejudicial to Aptiv.

Aptiv objects to Exhibit 1103 as being an incomplete copy under F.R.E 106. For example, as an incomplete copy of the book, this exhibit is only part of a writing, which creates a "misleading impression created by taking matters out of context." (Advisory Committee Notes to F.R.E 106.)

U. Exhibit 1104 (Declaration of John Phillips)

Aptiv objects to Exhibit 1104 under F.R.E. 401 and 403 as irrelevant and/or unduly prejudicial, misleading, or confusing the issues. That Microchip continued to sell products for dual upstream media hubs and other non-automotive uses is irrelevant to and misleading regarding the secondary considerations of

nonobviousness. As Microchip's own product sheets explain on their cover, automotive applications are only one of a number of "target applications" for the products identified by Mr. Phillips, yet he has made no effort to explain which or how many of the sales he cites were made for such automotive applications. Nor does he address whether any of these products were used in vehicles that do not offer CarPlay compatibility. As a result, it is impossible to determine from Mr. Phillips declaration the only information even arguably relevant to an issue before the board—how many non-MHER products it sold for use in CarPlay-enabled vehicles during the 2017-2023 time period.

Dated: January 27, 2025

Respectfully submitted,

By: */s/ Andrew T. Jones*

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Certificate of Service (37 C.F.R. § 42.6(e)(4))

I hereby certify that the attached PATENT OWNER'S OBJECTIONS TO EVIDENCE SUBMITTED PETITIONER'S REPLY BRIEF was served as of the below date on the Petitioner via e-mail (by agreement) to the following counsel of record:

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Dated: January 27, 2025 *<u>/s/ Andrew T. Jones</u>*

Andrew T. Jones