

Filed: February 24, 2025

Filed on behalf of:

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

MASIMO CORPORATION,
Patent Owner.

Case IPR2024-00241
U.S. Patent 10,687,743

PATENT OWNER'S OBJECTION TO EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b), Patent Owner Masimo Corporation objects as follows to the admissibility of evidence served with the Petition. Patent Owner reserves its rights to:

- (1) file a motion to exclude these objectionable exhibits or portions thereof;
- (2) challenge the credibility and/or weight that should be afforded to these exhibits, whether or not Patent Owner files a motion to exclude the exhibits;
- (3) challenge the sufficiency of the evidence to meet Petitioner's burden of proof on any issue, including, without limitation, whether Petitioner met its burden to prove the prior art status of the alleged prior art on which it relies, whether or not Patent Owner has objected to, or files a motion to exclude, the evidence; and
- (4) cross examine any Petitioner declarant within the scope of his or her direct testimony that relates to these exhibits, without regard to whether Patent Owner has objected to the testimony or related exhibits or whether the testimony or related exhibits are ultimately found to be inadmissible.

Exhibit Number	Objections
1014	Patent Owner objects to EX1014 as irrelevant (FRE 401/402). Patent Owner objects to Petitioner's reliance on EX1014 for

	the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1014 as exceeding the permissible scope of reply. Patent Owner objects to EX1014 as inadmissible hearsay pursuant to FRE 801-802 that is not subject to any exception.
1028	Patent Owner objects to EX1028 as irrelevant (FRE 401/402). Patent Owner objects to Petitioner's reliance on EX1028 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1028 as exceeding the permissible scope of reply.
1032	Patent Owner objects to EX1032 as irrelevant (FRE 401/402). Patent Owner objects to Petitioner's reliance on EX1032 for the first time in Reply as improper and unfairly prejudicial

	under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1032 as exceeding the permissible scope of reply.
1037	Patent Owner objects to EX1037 as irrelevant (FRE 401/402). Patent Owner objects to Petitioner's reliance on EX1037 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1037 as exceeding the permissible scope of reply.
1038	Patent Owner objects to EX1038 as irrelevant (FRE 401/402). Patent Owner objects to Petitioner's reliance on EX1038 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1038 as exceeding the permissible scope of reply.
1039	Patent Owner objects to EX1039 as irrelevant (FRE

	401/402). Patent Owner objects to Petitioner's reliance on EX1039 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1039 as exceeding the permissible scope of reply.
1040	Patent Owner objects to EX1040 as irrelevant (FRE 401/402). Patent Owner objects to Petitioner's reliance on EX1040 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1040 as exceeding the permissible scope of reply.
1041	Patent Owner objects to EX1041 as irrelevant (FRE 401/402). Patent Owner objects to Petitioner's reliance on EX1041 for the first time in Reply as improper and unfairly prejudicial

	under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1041 as exceeding the permissible scope of reply.
1042	Patent Owner objects to EX1042 as irrelevant (FRE 401/402). Patent Owner objects to Petitioner's reliance on EX1042 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1042 as exceeding the permissible scope of reply. EX1042 is inadmissible hearsay pursuant to FRE 801-802 that is not subject to any exception.
1044	Patent Owner objects to EX1044 as irrelevant (FRE 401/402). Patent Owner objects to Petitioner's reliance on EX1044 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to

	strike arguments or testimony relying upon EX1044 as exceeding the permissible scope of reply.
1045	Patent Owner objects to EX1045 as irrelevant (FRE 401/402). Patent Owner objects to Petitioner's reliance on EX1045 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1045 as exceeding the permissible scope of reply.
1046	Patent Owner objects to EX1046 as irrelevant (FRE 401/402). Patent Owner objects to Petitioner's reliance on EX1046 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1046 as exceeding the permissible scope of reply.
1047	Patent Owner objects to EX1047 as irrelevant (FRE 401/402).

	Patent Owner objects to Petitioner's reliance on EX1047 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1047 as exceeding the permissible scope of reply.
1048	Patent Owner objects to EX1048 as irrelevant (FRE 401/402). Patent Owner objects to Petitioner's reliance on EX1048 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1048 as exceeding the permissible scope of reply.
1049	Patent Owner objects to EX1049 as irrelevant (FRE 401/402). Patent Owner objects to Petitioner's reliance on EX1049 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to

	strike arguments or testimony relying upon EX1049 as exceeding the permissible scope of reply.
1079	Patent Owner objects to Dr. Anthony's testimony regarding the level of ordinary skill in the art, the knowledge of a skilled artisan, the scope and content of the art and his interpretation thereof, and the ultimate issue of obviousness on the bases that such testimony (1) will not "help the trier of fact to understand the evidence or to determine a fact in issue," at least because Dr. Anthony lacks experience in the relevant field and/or is not qualified to testify as to the knowledge of a person of skill in the art or how a person of skill in the art would understand the relevant technical issues, (2) is not "based on sufficient facts or data," (3) is not "the product of reliable principles and methods," and/or (4) is not based on a reliable application of the "principles and methods to the facts of the case." FRE 702. Patent Owner objects to paragraphs 35-36 as irrelevant and unfairly prejudicial under FRE 401/402/403. Paragraphs 35-36 reference arguments and evidence only presented in a

	different proceeding. Paragraphs 35-36 further reference Dr. Madisetti's declaration, EX2100, from IPR2024-00243, and thus, presents an incomplete and misleading record. Masimo is entitled under FRE 106 to submit Madisetti's declaration from IPR2024-00243 to complete the record.
1080	Patent Owner objects to EX1080 as irrelevant, misleading, and unfairly prejudicial (FRE 401/402/403) Patent Owner further objects to EX1080 as inadmissible hearsay FRE 801-802 not subject to any exception. EX1080 is a deposition transcript of a different expert from a previous proceeding. Patent Owner objects to EX1080 as incomplete under FRE 106. Petitioner introduced the cross-examination of Dr. Duckworth, which entitles Masimo to introduce Dr. Duckworth's direct testimony contained in Exhibits 2070 and 2100 in IPR2022-01291 and IPR2022-01465 under FRE 106.
1081	Patent Owner objects to EX1081 as irrelevant and misleading under FRE 401/402/403. EX1081 is cited in the supplemental Anthony declaration at paragraph 36 to

	purportedly respond to a statement in Madisetti's declaration, EX2100. However, the supplemental Anthony declaration was referencing EX2100 from IPR2024-00243, not IPR2024-00241. Thus, EX1081 is not relevant to any issue in IPR2024-00241. Patent Owner objects to Petitioner's reliance on EX1081 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1081 as exceeding the permissible scope of reply.
1082	Patent Owner objects to EX1082 as inadmissible hearsay pursuant to FRE 801-802 that is not subject to any exception. Patent Owner objects to Petitioner's reliance on EX1082 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1082 as exceeding the permissible scope of reply.
1083	Patent Owner objects to EX1083 as inadmissible hearsay

	pursuant to FRE 801-802 that is not subject to any exception. Patent Owner objects to Petitioner's reliance on EX1083 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1083 as exceeding the permissible scope of reply.
1084	Patent Owner objects to EX1084 as inadmissible hearsay pursuant to FRE 801-802 that is not subject to any exception. Patent Owner objects to Petitioner's reliance on EX1084 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1084 as exceeding the permissible scope of reply.
1085	Patent Owner objects to EX1085 as irrelevant under FRE 401/402. EX1085 is not cited for any purpose in the reply. Patent Owner objects to Petitioner's reliance on EX1085 for the first time in Reply as improper and unfairly prejudicial

	under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1085 as exceeding the permissible scope of reply.
1086	Patent Owner incorporates by reference the objections stated on the record during the deposition of Dr. Madisetti. Patent Owner objects to EX1086 as incomplete to the extent that the witness has corrections to the transcript. Masimo reserves the right to introduce any corrections to the transcript.
1087	Patent Owner incorporates by reference the objections stated on the record during the deposition of Dr. Madisetti. Patent Owner objects to EX1087 as incomplete to the extent that the witness has corrections to the transcript. Masimo reserves the right to introduce any corrections to the transcript.
1088	Patent Owner objects to EX1088 as irrelevant (FRE 401/402).

	Patent Owner objects to Petitioner's reliance on EX1088 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1088 as exceeding the permissible scope of reply.
1090	Patent Owner objects to EX1090 as irrelevant (FRE 401/402). Patent Owner objects to Petitioner's reliance on EX1090 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1090 as exceeding the permissible scope of reply.
1091	Patent Owner objects to EX1091 as irrelevant (FRE 401/402). Patent Owner objects to Petitioner's reliance on EX1091 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1091 as

	exceeding the permissible scope of reply.
1092	Patent Owner objects to EX1092 as irrelevant (FRE 401/402). Patent Owner objects to Petitioner's reliance on EX1092 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1092 as exceeding the permissible scope of reply.
1093	Patent Owner objects to EX1093 as irrelevant (FRE 401/402). Patent Owner objects to Petitioner's reliance on EX1093 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1093 as exceeding the permissible scope of reply.
1094	Patent Owner objects to EX1094 as irrelevant (FRE 401/402).

	Patent Owner objects to Petitioner's reliance on EX1094 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1094 as exceeding the permissible scope of reply.
1095	Patent Owner objects to EX1095 as irrelevant (FRE 401/402). Patent Owner further objects to EX1095 as not authenticated. FRE 901. Patent Owner further objects to EX1095 as illegible. Patent Owner objects to Petitioner's reliance on EX1094 for the first time in Reply as improper and unfairly prejudicial under FRE 403. Patent Owner reserves all rights to move to strike arguments or testimony relying upon EX1094 as exceeding the permissible scope of reply.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: February 24, 2025

/Daniel C. Kiang/

Daniel C. Kiang (Reg. No. 79,631)

Attorney for Patent Owner
Masimo Corporation

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to 37 C.F.R. § 42.6(e) and with the agreement of counsel for Petitioner, a true and correct copy of **PATENT OWNER'S OBJECTION TO EVIDENCE** is being served electronically on February 24, 2025 to the e-mail addresses shown below:

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Dated: February 24, 2025

/Daniel C. Kiang/

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Attorney for Patent Owner
Masimo Corporation