

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COMCAST CABLE COMMUNICATIONS, LLC,
CHARTER COMMUNICATIONS, INC.,
Petitioners,

v.

TOUCHSTREAM TECHNOLOGIES, INC.,
Patent Owner

IPR2024-00322
U.S. Patent No. 8,356,251

**PATENT OWNER'S OBJECTIONS TO EVIDENCE
FILED WITH PETITIONER'S REPLY**

In accordance with 37 C.F.R. § 42.64(b)(1), Patent Owner Touchstream Technologies, Inc. submits the following objections to evidence and argument submitted by Petitioner Comcast Cable Communications, LLC et al., with Petitioner's Reply.

Patent Owner objects to Exhibit 1198, the Reply Declaration of David B. Lett in Support of Petitioner's Reply as improper reply evidence, and further objects to Petitioner's Reply arguments relying on this evidence. *See, e.g., Intelligent Bio-Sys., Inc. v. Illumina Cambridge, Ltd.*, 821 F.3d 1359, 1369–70 (Fed. Cir. 2016) (affirming the Board's exclusion of new evidence and argument submitted in Petitioner's reply that presented a new rationale why a POSITA would have been motivated to combine references, which exceeded the legitimate scope of reply); *see also* 37 C.F.R. § 42.23(b) ("A reply may only respond to arguments raised in the corresponding opposition or patent owner response."); Consolidated Trial Practice Guide (November 2019), at 73 ("Petitioner may not submit new evidence or argument in reply that it could have presented earlier, e.g. to make out a prima facie case of unpatentability."); *id.* at 74 ("[A] reply or sur-reply that raises a new issue or belatedly presents evidence may not be considered."). For example, paragraphs 8 and 9 of Exhibit 1198 improperly provide testimony regarding an obviousness theory presented for the first time in Reply. Paragraphs 10–21 of Exhibit 1198 improperly provide testimony to support an element of Petitioner's prima facie case,

namely whether Mahajan is analogous art. Paragraphs 22–26 of Exhibit improperly provide a new obviousness theory regarding the “retrieving” limitation of claim 22 that was not presented in the Petition and that is based on disclosure in Danciu that was not cited or relied upon in the Petition.

Dated: February 20, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 CFR § 42.6(e), the undersigned certifies that on February 20, 2025, a complete and entire copy of these Patent Owner Objections to Evidence were served via e-mail to Petitioner's counsel of record as follows:

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