Filed on behalf of Cortex MCP, Inc.
By: Michelle E. Armond
Douglas R. Wilson
Patrick Maloney
Yue Han
ARMOND WILSON LLP
4685 MacArthur Court, Suite 390
Newport Beach, CA 92660
Telephone: (949) 932-0778
Email: ipr@armondwilson.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VISA INC.,
Petitioner,

v.

CORTEX MCP, INC.,
Patent Owner.

Case No. IPR2024-00489
U.S. Patent No. 10,749,859

PATENT OWNER'S OBJECTIONS TO EVIDENCE

I. INTRODUCTION

Pursuant to the Federal Rules of Evidence ("FRE") and 37 C.F.R. § 42.64(b)(1), Patent Owner Cortex MCP, Inc. timely objects to the evidence submitted by Petitioner Visa Inc. in this proceeding. Patent Owner may move to exclude the challenged exhibits under 37 C.F.R. § 42.64(c) unless Petitioner provides evidence curing the objections identified by Patent Owner below.

II. SPECIFIC OBJECTIONS

A. Exhibit 1005 – Declaration of Michael Ian Shamos

Patent Owner objects to Exhibit 1005 under FRE 701-705 and 801-802 because Dr. Shamos has not been made available for deposition. Patent Owner reserves the right to raise any additional objections that become apparent from Dr. Shamos' deposition at that time if he is made available for deposition.

B. Exhibit 1019 – Steiner

Patent Owner objects to Exhibit 1019 under FRE 901 because Petitioner has not produced any evidence "sufficient to support a finding that the item is what the proponent claims it is." FRE 901(a). Indeed, Petitioner does not even assert that the document is prior art or make any other factual assertions regarding Exhibit 1019.

Patent Owner further objects to Exhibit 1019 under FRE 401-403 because Petitioner has not even asserted that it is prior art, much less offered any evidence that it is a printed publication or falls within any other class of prior art. Thus, it is

irrelevant to any issue in the IPR and should be excluded because any prejudice it causes outweighs the complete lack of relevance of the exhibit.

C. Exhibit 1020 – Cross River

Patent Owner objects to Exhibit 1020 under FRE 901 because Petitioner has not produced any evidence "sufficient to support a finding that the item is what the proponent claims it is." FRE 901(a). Indeed, Petitioner does not even assert that the document is prior art or make any other factual assertions regarding Exhibit 1020.

Patent Owner further objects to Exhibit 1020 under FRE 401-403 because Petitioner has not even asserted that it is prior art, much less offered any evidence that it is a printed publication or falls within any other class of prior art. Thus, it is irrelevant to any issue in the IPR and should be excluded because any prejudice it causes outweighs the complete lack of relevance of the exhibit.

Patent Owner further objects to Exhibit 1020 under FRE 801-802 because it is offered for the truth of the matters asserted and is not subject to any hearsay exception. For example, Petitioners rely on statements of fact in Exhibit 1020 for the truth of the matters asserted. *See, e.g.*, EX1005 ¶ 104.

D. Exhibit 1022 – Shift4

Patent Owner objects to Exhibit 1022 under FRE 901 because Petitioner has not produced any evidence "sufficient to support a finding that the item is what the

proponent claims it is." FRE 901(a). Indeed, Petitioner does not even assert that the document is prior art or make any other factual assertions regarding Exhibit 1022.

Patent Owner further objects to Exhibit 1022 under FRE 401-403 because Petitioner has not even asserted that it is prior art, much less offered any evidence that it is a printed publication or falls within any other class of prior art. Thus, it is irrelevant to any issue in the IPR and should be excluded because any prejudice it causes outweighs the complete lack of relevance of the exhibit.

Patent Owner further objects to Exhibit 1022 under FRE 801-802 because it is offered for the truth of the matters asserted and is not subject to any hearsay exception. For example, Petitioners rely on statements of fact in Exhibit 1022 for the truth of the matters asserted. *See, e.g.*, EX1005 ¶ 111.

E. Exhibit 1023 – Arnold

Patent Owner objects to Exhibit 1023 under FRE 901 because Petitioner has not produced any evidence "sufficient to support a finding that the item is what the proponent claims it is." FRE 901(a). Indeed, Petitioner does not even assert that the document is prior art or make any other factual assertions regarding Exhibit 1023.

Patent Owner further objects to Exhibit 1023 under FRE 401-403 because Petitioner has not even asserted that it is prior art, much less offered any evidence that it is a printed publication or falls within any other class of prior art. Thus, it is

irrelevant to any issue in the IPR and should be excluded because any prejudice it causes outweighs the complete lack of relevance of the exhibit.

Patent Owner further objects to Exhibit 1023 under FRE 801-802 because it is offered for the truth of the matters asserted and is not subject to any hearsay exception. For example, Petitioners rely on statements of fact in Exhibit 1023 for the truth of the matters asserted. *See, e.g.*, EX1005 ¶ 112.

F. Exhibit 1024 – Brown

Patent Owner objects to Exhibit 1024 under FRE 901 because Petitioner has not produced any evidence "sufficient to support a finding that the item is what the proponent claims it is." FRE 901(a). Indeed, Petitioner does not even assert that the document is prior art or make any other factual assertions regarding Exhibit 1024.

Patent Owner further objects to Exhibit 1024 under FRE 401-403 because Petitioner has not even asserted that it is prior art, much less offered any evidence that it is a printed publication or falls within any other class of prior art. Thus, it is irrelevant to any issue in the IPR and should be excluded because any prejudice it causes outweighs the complete lack of relevance of the exhibit.

Patent Owner further objects to Exhibit 1024 under FRE 801-802 because it is offered for the truth of the matters asserted and is not subject to any hearsay exception. For example, Petitioners rely on statements of fact in Exhibit 1024 for the truth of the matters asserted. *See, e.g.*, EX1005 ¶ 114.

G. Exhibit 1027 – First Data 2009

Patent Owner objects to Exhibit 1027 under FRE 901 because Petitioner has not produced any evidence "sufficient to support a finding that the item is what the proponent claims it is." FRE 901(a). Indeed, Petitioner does not even assert that the document is prior art or make any other factual assertions regarding Exhibit 1027.

Patent Owner further objects to Exhibit 1027 under FRE 401-403 because Petitioner has not even asserted that it is prior art, much less offered any evidence that it is a printed publication or falls within any other class of prior art. Thus, it is irrelevant to any issue in the IPR and should be excluded because any prejudice it causes outweighs the complete lack of relevance of the exhibit.

Patent Owner further objects to Exhibit 1027 under FRE 801-802 because it is offered for the truth of the matters asserted and is not subject to any hearsay exception. For example, Petitioners rely on statements of fact in Exhibit 1027 for the truth of the matters asserted. *See, e.g.*, EX1005 ¶ 117.

H. Exhibit 1032 – CyberSource

Patent Owner objects to Exhibit 1032 under FRE 901 because Petitioner has not produced any evidence "sufficient to support a finding that the item is what the proponent claims it is." FRE 901(a). Indeed, Petitioner does not even assert that the document is prior art or make any other factual assertions regarding Exhibit 1032.

Patent Owner further objects to Exhibit 1032 under FRE 401-403 because Petitioner has not even asserted that it is prior art, much less offered any evidence that it is a printed publication or falls within any other class of prior art. Thus, it is irrelevant to any issue in the IPR and should be excluded because any prejudice it causes outweighs the complete lack of relevance of the exhibit.

Patent Owner further objects to Exhibit 1032 under FRE 801-802 because it is offered for the truth of the matters asserted and is not subject to any hearsay exception. For example, Petitioners rely on statements of fact in Exhibit 1032 for the truth of the matters asserted. *See, e.g.*, EX1005 ¶ 126.

I. Exhibit 1033 – Visa Best Practices

Patent Owner objects to Exhibit 1033 under FRE 901 because Petitioner has not produced any evidence "sufficient to support a finding that the item is what the proponent claims it is." FRE 901(a). Indeed, Petitioner does not even assert that the document is prior art or make any other factual assertions regarding Exhibit 1033.

Patent Owner further objects to Exhibit 1033 under FRE 401-403 because Petitioner has not even asserted that it is prior art, much less offered any evidence that it is a printed publication or falls within any other class of prior art. Thus, it is irrelevant to any issue in the IPR and should be excluded because any prejudice it causes outweighs the complete lack of relevance of the exhibit.

Patent Owner further objects to Exhibit 1033 under FRE 801-802 because it is offered for the truth of the matters asserted and is not subject to any hearsay exception. For example, Petitioners rely on statements of fact in Exhibit 1033 for the truth of the matters asserted. *See, e.g.*, EX1005 ¶¶ 127, 207.

J. Exhibit 1035 – Tokenization Guidelines

Patent Owner objects to Exhibit 1035 under FRE 901 because Petitioner has not produced any evidence "sufficient to support a finding that the item is what the proponent claims it is." FRE 901(a). Indeed, Petitioner does not even assert that the document is prior art or make any other factual assertions regarding Exhibit 1035.

Patent Owner further objects to Exhibit 1035 under FRE 401-403 because Petitioner has not even asserted that it is prior art, much less offered any evidence that it is a printed publication or falls within any other class of prior art. Thus, it is irrelevant to any issue in the IPR and should be excluded because any prejudice it causes outweighs the complete lack of relevance of the exhibit.

Patent Owner further objects to Exhibit 1035 under FRE 801-802 because it is offered for the truth of the matters asserted and is not subject to any hearsay exception. For example, Petitioners rely on statements of fact in Exhibit 1035 for the truth of the matters asserted. *See, e.g.*, EX1005 ¶¶ 129-30.

K. Exhibit 1038 – First Data 2011

Patent Owner objects to Exhibit 1038 under FRE 901 because Petitioner has not produced any evidence "sufficient to support a finding that the item is what the proponent claims it is." FRE 901(a). Indeed, Petitioner does not even assert that the document is prior art or make any other factual assertions regarding Exhibit 1038.

Patent Owner further objects to Exhibit 1038 under FRE 401-403 because Petitioner has not even asserted that it is prior art, much less offered any evidence that it is a printed publication or falls within any other class of prior art. Thus, it is irrelevant to any issue in the IPR and should be excluded because any prejudice it causes outweighs the complete lack of relevance of the exhibit.

Patent Owner further objects to Exhibit 1038 under FRE 801-802 because it is offered for the truth of the matters asserted and is not subject to any hearsay exception. For example, Petitioners rely on statements of fact in Exhibit 1038 for the truth of the matters asserted. *See, e.g.*, EX1005 ¶ 134.

ARMOND WILSON LLP

Dated: August 15, 2024

By: /Michelle E. Armond/
Michelle E. Armond (Reg. No. 53,954)
Douglas R. Wilson (Reg. No. 54,542)
Patrick Maloney (Reg. No. 67,247)
Yue Han (Reg. No. 80,950)
Attorneys for Cortex MCP, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that pursuant to 37 C.F.R. § 42.6(e), a true copy of the foregoing **PATENT OWNER'S OBJECTIONS TO EVIDENCE** is being served electronically on August 15, 2024 to the following counsel for Petitioner to the following email addresses:

Matthew A. Argenti
margenti@wsgr.com

Michael T. Rosato
mrosato@wsgr.com

Patrick M. Medley
pmedley@wsgr.com

Joseph M. Baillargeon
jbaillargeon@wsgr.com

ARMOND WILSON LLP

Dated: August 15, 2024

By: /Michelle E. Armond/
Michelle E. Armond (Reg. No. 53,954)
Douglas R. Wilson (Reg. No. 54,542)
Patrick Maloney (Reg. No. 67,247)
Yue Han (Reg. No. 80,950)
Attorneys for Cortex MCP, Inc.