Filed on behalf of Cortex MCP, Inc.
By: Michelle E. Armond
Douglas R. Wilson
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 1048 – Reply Declaration of Dr. Shamos

Patent Owner objects to Exhibit 1048 under FRE 701-705 and 801-802 pending Dr. Shamos appearing for deposition. Patent Owner reserves the right to raise any additional objections that become apparent from Dr. Shamos' declaration at that time if he is made available for deposition.

Patent Owner further objects to paragraphs 8–58 of Exhibit 1048 because this testimony is improper reply evidence that could have been presented earlier, raises new invalidity theories that should have been disclosed in the Petition or Dr. Shamos' original declaration (Exhibit 1005), and/or seeks to retract or modify Petitioner's own statements and expert testimony. *See* 37 C.F.R. § 42.23(b); Consol. Trial Practice Guide (Nov. 2019) at 73-74.

B. Exhibit 1049 – U.S. Patent Pub. No. 2010/0217682 to Chan

Patent Owner objects to Exhibit 1049 because it is improper reply evidence that was not submitted with the Petition and is not part of any ground in this IPR. *See* 37 C.F.R. § 42.23(b); Consol. Trial Practice Guide (Nov. 2019) at 73-74.

C. Exhibit 1050 – Gao

Patent Owner objects to Exhibit 1050 because it is improper reply evidence that was not submitted with the Petition and is not part of any ground in this IPR. *See* 37 C.F.R. § 42.23(b); Consol. Trial Practice Guide (Nov. 2019) at 73-74.

Patent Owner further objects to Exhibit 1050 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 1050.

D. Exhibit 1051 – U.S. Patent Pub. No. 2014/0006277 to Rao

Patent Owner objects to Exhibit 1051 because it is improper reply evidence that was not submitted with the Petition and is not part of any ground in this IPR. *See* 37 C.F.R. § 42.23(b); Consol. Trial Practice Guide (Nov. 2019) at 73-74.

E. Exhibit 1052 – U.S. Patent No. 9,275,387 to Spector et al.

Patent Owner objects to Exhibit 1052 because it is improper reply evidence that was not submitted with the Petition and is not part of any ground in this IPR. *See* 37 C.F.R. § 42.23(b); Consol. Trial Practice Guide (Nov. 2019) at 73-74.

F. Exhibit 1053 – U.S. Patent Pub. No. 2013/0024371 to Hariramani et al.

Patent Owner objects to Exhibit 1053 because it is improper reply evidence that was not submitted with the Petition and is not part of any ground in this IPR. *See* 37 C.F.R. § 42.23(b); Consol. Trial Practice Guide (Nov. 2019) at 73-74.

G. Exhibit 1054 – Supplementary high-resolution versions of the figures in U.S. Patent Pub. No. 2013/0024371 to Hariramani

Patent Owner objects to Exhibit 1054 because it is improper reply evidence that was not submitted with the Petition and is not part of any ground in this IPR. *See* 37 C.F.R. § 42.23(b); Consol. Trial Practice Guide (Nov. 2019) at 73-74.

Patent Owner further objects to Exhibit 1054 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 relies on only hearsay and provides no evidence establishing that Exhibit 1054 is what it purports to be. *See* EX1048 at n.1.

H. Exhibit 1055 – "Redactis"

Patent Owner objects to Exhibit 1055 because it is improper reply evidence that was not submitted with the Petition and is not part of any ground in this IPR. *See* 37 C.F.R. § 42.23(b); Consol. Trial Practice Guide (Nov. 2019) at 73-74.

Patent Owner further objects to Exhibit 1055 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 provide a date or the context for the document, assert that the document is prior art, or make any other factual assertions regarding Exhibit 1055.

I. Exhibit 1057 – U.S. Patent Pub. No. 2010/0017860 to Ishida

Patent Owner objects to Exhibit 1057 because it is improper reply evidence that was not submitted with the Petition and is not part of any ground in this IPR. *See* 37 C.F.R. § 42.23(b); Consol. Trial Practice Guide (Nov. 2019) at 73-74.

ARMOND WILSON LLP

Dated: February 10, 2025

By: /Michelle E. Armond/
Michelle E. Armond (Reg. No. 53,954)
Douglas R. Wilson (Reg. No. 54,542)
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 February 10, 2025 to the following lead and backup 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

Wesley E. Derryberry
wderryberry@wsgr.com

ARMOND WILSON LLP

Dated: February 10, 2025

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