

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APTIV SERVICES US, LLC
Petitioner,

v.

MICROCHIP TECHNOLOGY INC.,
Patent Owner.

Case No. IPR2024-00646
U.S. Patent No. 9,471,074

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

Pursuant to 37 C.F.R. §42.64(b)(1), Petitioner submits the following objections to evidence associated with Petitioner's Reply (Paper 25) in this proceeding.

- Exhibit 1028 (Second Supplemental Declaration of Dr. Michael S. Chen): Patent Owner objects to Exhibit 1028 as irrelevant, lacking foundation, assuming facts not in evidence, calling for legal conclusion, and mischaracterizing evidence. Patent Owner further objects to this exhibit to the extent it includes expert opinions for which the factual bases have not been disclosed, for which Dr. Chen does not have personal knowledge (FRE 602), and to the extent that Dr. Chen's opinions constitute unreliable expert testimony under FRE 702 and 703. Patent Owner objects to EX1028 as cursory, incomplete, misleading, irrelevant, confusing the issues and wasting the parties' and the Board's resources/time, and as far more prejudicial than probative (F.R.E. 403). For example, Dr. Chen discusses a datasheet that he says "appears to be dated January 2011 for a part called AP7331 made by Diodes Incorporated" (¶18) and a purported "MIC3385" datasheet (¶17). Dr. Chen renders no expert opinions about, or based on, these datasheets. Merely regurgitating information on the datasheets is irrelevant and a waste of the parties' and Board's time. In ¶¶3-7 and 12-15, Dr. Chen

provides opinions related to the claim term “gm-enhanced.” There is no reason Dr. Chen (and Petitioner) could not have addressed this term or disclosed the new theories in the opening papers. Dr. Chen (and Petitioner) should have known (at least based on the claim language itself) that the terms “gm-enhanced” and “gm-boost” are different terms with different meanings, and how Al-Shyoukh transistor Q20 allegedly meets the “gm-enhance” limitation. As such, Dr. Chen’s new opinions in ¶¶3-7 and 12-15 constitute improper reply evidence. In ¶¶8-11, Dr. Chen renders new opinions that could have (and should have) been disclosed in his original declaration. If Dr. Chen wished to explain the claim term “biasing ratio” (including be reference to the ’074 patent) he should have done so in his opening declaration (especially considering that Petitioner bears the burden of proof on obviousness). Dr. Chen’s belated opinions are unduly prejudicial to Patent Owner who is not authorized to submit countervailing expert testimony. Moreover, Dr. Chen misunderstands and/or misrepresents Petitioner’s position and Dr. Taylor’s declaration, making his testimony irrelevant and unduly prejudicial. Patent Owner further objects to the entirety of Dr. Chen’s analysis and opinions as being based on an incorrect POSITA standard/definition. See EX1002, ¶38.

- Exhibit 1029 (Transcript of Deposition of Dr. Greg Taylor): Patent Owner maintains all objections to EX1029 as stated on the record.
- Exhibit 1030 (Micrel Inc., MIC3385 Datasheet (May 2010) ('MIC3385')): Patent owner objects to EX1030 as lacking foundation and authentication under FRE 901. Patent Owner also objects to EX1030 as containing hearsay to the extent that Petitioner attempts to rely on it to prove the truth of any matter described therein under FRE 801 and FRE 802. For example, Petitioner fails to offer sufficient evidence that EX1030 was publicly accessible in its presented form as of the alleged publication date. Petitioner fails to offer sufficient evidence that EX1030 is what Petitioner claims it to be. Patent Owner further objects to EX1030 to the extent that it is not relevant to any issue in the present proceeding and/or unduly prejudicial. *See* FRE 401–403. Patent Owner further objects to the portions of EX1030 not discussed or cited in the Reply as not being relevant to any issue on which trial has been instituted. If the objected to material was not discussed or cited in the Reply, Patent Owner has had no fair opportunity to respond to Petitioner's unstated contentions (if any) regarding the same. Such information is not relevant and its consideration would be unfairly prejudicial to Patent Owner. In particular, the Reply only cites or

discusses limited portions of pages 3, 6 of EX1030. Accordingly, all other pages, sections, and figures of EX1030 which are not cited or discussed in the Reply are objected to as not being relevant to any issue in this IPR.

- Exhibit 1031 (Declaration of Dr. Greg Taylor in Support of Microchip's Opening Claim Construction Brief, dated Mar. 1, 2024 in *Microchip Technology Inc. v. Aptiv Services, LLC*, Case No. 1:23-cv-00778- JDW (D. Del.)): Patent Owner objects to EX1031 as not being relevant to any issue in this IPR. Petitioner cites this exhibit only once in the Reply. *See* Reply, 24. Petitioner cites it not for the Dr. Taylor's testimony (which would be hearsay in any event), but for a purported datasheet. *Id.* This exhibit is not relied upon as prior art in the challenged grounds, and thus is irrelevant and/or unduly prejudicial. *See* FRE 401-403. Patent Owner objects to the portions of this exhibit not discussed or cited in the Petition, as not being relevant to any issue on which trial has been instituted. Patent Owner has had no fair opportunity to respond to Petitioner's unstated contentions (if any) regarding the same. Accordingly, this exhibit is irrelevant and its consideration would be unfairly prejudicial to Patent Owner. Petitioner further objects that this exhibit lacks proper authentication and foundation, including the

datasheet included therein. *See* FRE 901. Patent Owner objects to this exhibit (including the datasheet) as containing hearsay to the extent that Petitioner attempts to rely on it to prove the truth of any matter described therein under FRE 801 and FRE 802. For example, Petitioner fails to offer sufficient evidence this exhibit was publicly accessible in its presented form as of the alleged publication date. Petitioner fails to offer sufficient evidence that this exhibit is what Petitioner claims it to be.

Dated: April 10, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that on April 10, 2025, a copy of the following was served in its entirety via electronic mail, upon the following attorneys of record for the Petitioner:

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/Karen Johnson/

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