

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

**SAMSUNG ELECTRONICS CO., LTD. AND
SAMSUNG ELECTRONICS AMERICA, INC.,**
Petitioners

v.

MAXELL, LTD.,
Patent Owner

Inter Partes Review No.: IPR2024-00777

U.S. Patent No. 11,017,815

**OPPOSITION TO PATENT OWNER'S
MOTION TO EXCLUDE EVIDENCE**

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I. INTRODUCTION

Maxell seeks to exclude one of the references relied on in Grounds 7, 8 and 10 of the Petition, WinTV (EX1010) due to an alleged lack of sufficient evidence that WinTV was publicly accessible. In support of its goal, Maxell further objects to a mountain of evidence produced by Petitioners that demonstrates exactly the opposite. In so doing, Maxell mischaracterizes some of that evidence, ignores other evidence, mis-states applicable law, and takes inconsistent positions. Maxell's Motion should be denied in its entirety.

II. ARGUMENT

A. WinTV Was Publicly Accessible Prior to the '815 Patent's Earliest Priority Date and Therefore Should Not Be Excluded

Maxell's Motion alleges that WinTV lacks foundation, authenticity, and relevance. Motion, 2 and 6. All three allegations are wrong.

1. There is a Foundation for WinTV

WinTV is authentic and relevant as demonstrated below. This establishes the requisite foundation for the admission of WinTV in this proceeding.

2. WinTV Is Authentic

There can be no doubt that WinTV is authentic. EX1008 is an Internet Archive declaration that establishes that WinTV was a file on the Hauppauge.com website on September 14, 2003. EX1008, 1-2 and 295-325. The PTAB has long recognized Internet Archive declarations as sufficient to establish authenticity.

E.g., Johns Manville Corp. v. Knauf Insulation, Inc., IPR2015-01453, Paper 49, at 13. The Federal Circuit has further indicated that judicial notice may be taken of Internet Archive records. *Valve Corp. v. Ironburg Inventions Ltd.*, 8 F.4th 1364, 1374 (Fed. Cir. 2021). Maxell provides no evidence indicating that WinTV is not authentic. There can be no serious doubt as to WinTV’s authenticity on this record.

3. WinTV Is Relevant

WinTV is relevant to the obviousness of the Challenged Claims as shown in Grounds 7, 8 and 10 of the Petition. The only basis for Maxell’s assertion that WinTV is not relevant is its assertion that WinTV was not publicly accessible. Motion, 2-5. That assertion is false as demonstrated below.

4. WinTV Was Publicly Accessible Via the Hauppauge Website Prior to the ’815 Patent’s Earliest Priority Date

Maxell’s public accessibility argument rests largely on its assertion that its expert “navigated within” the Hauppauge.com archived webpages in “August or September 2003” and “explored some links present at the time within those web pages” but could not find a link to WinTV. Motion, 4-5 (citing Paper 21 at 43-48 and EX2040, ¶¶99-101). This alleged inability to navigate to WinTV led Maxell and its expert to assert that WinTV was not accessible to the general public or a POSITA at the time of the ’815 patent.

As previously explained in Petitioner’s Reply at 18-21, the fatal flaw in Maxell’s public accessibility argument is that WinTV could easily be accessed

from the Hauppauge.com website as archived in August or September 2003. In fact, it took just three clicks to navigate to WinTV from the Hauppauge.com homepage as Maxell's expert demonstrated during his deposition.

At his deposition, Maxell's expert Dr. Balakrishnan was provided with a plain vanilla PC and clicked on a bookmark to an archived version of the Hauppauge.com homepage dated September 27, 2003 on the Internet Archive's Wayback Machine as shown below.



EX1072, 52:9-56:20; EX1065 (copy of Hauppauge.com homepage captured during deposition, yellow highlighting added). Contrary to the Motion's reference to "pre-generated 'bookmarks'" (Motion, 5), this one bookmark to the archived

Hauppauge.com homepage dated September 27, 2003 was the only bookmark used by Dr. Balakrishnan during this demonstration of navigating to WinTV from the Hauppauge.com homepage in three clicks.

On the homepage, Dr. Balakrishnan clicked on the Software Updates button highlighted above. The description to the right of this button reads in part “Product Support and Software Updates.” Dr. Krishnan clicked on this Software Updates button in the archived webpage – not on any bookmark – and the Wayback Machine responded by displaying the Product Support and Software Updates page, and excerpt of which is shown below. EX1072, 58:22-59:19; EX1066 (yellow highlighting added).

The Wayback Machine - https://web.archive.org/web/20030801080926/http://www.hauppauge.com:80/html/free_sw.htm

Hauppauge! [Software updates](#) [Comments?](#) [Specifications chart](#) [Where to buy](#) [Contact us](#)

Product Support and Software Updates

Click [here](#) for the Product Support site
(maintained by Hauppauge's technical support department)

See below for a list of software updates for Hauppauge Products

WinTV-PCI boards including the WinTV-GO, Theater, and DBX Product selector for software updates and utilities	WinTV-USB Software updates and utilities Frequently asked questions QuickInstall manual (PDF) WinTV-USB manual v4.8(PDF)	WinTV-HD High Definition TV receiver software updates QuickInstall manual (PDF)
WinTV-PVR Products Software Updates product selector WinTV-PVR Manual in PDF form		
WinTV-CinemaPro software updates	WinTV-D Installation software for Windows 98, NT, ME, 2000 and XP	VTPlus Teletext Software

[Home](#) [Back to Home Page](#)

The Product Support and Software Updates page lists several products, the

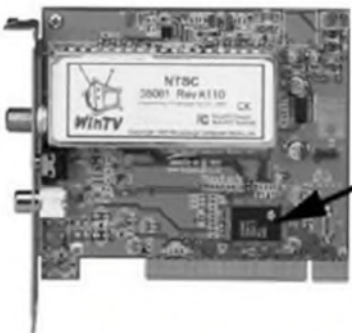
first of which is shown in the upper-left hand side as “WinTV-PCI board including the WinTV-GO, Theater and DBX” and below that includes the “Product Selector” link highlighted in yellow on the above page. Dr. Balakrishnan clicked for a second time on yellow highlighted link (again, not on any bookmark), which brought up the “WinTV PCI boards” page shown below. EX1072, 58:22-63:17; EX1067 (yellow highlighting added). That page displayed photos two different WinTV PCI board products, each of which includes several links. For the product on the left-hand side, one of those links was labeled “Installation manual (PDF).”

WinTV PCI boards

Software Update product selector page

Note: It is important that you chose the right WinTV pci board before you download and install a driver update.

Chose your WinTV PCI board, and you will be taken to the page which has software updates. Click [here](#) to download **ProdInfo**. When you run ProdInfo, the first line will tell you which WinTV pci Model number you have.



878 chip

WinTV 878 or 848 based PCI boards or Impact VCB's
[Software updates and utilities page](#)
[Frequently asked questions](#)
[Installation manual \(PDF\)](#)

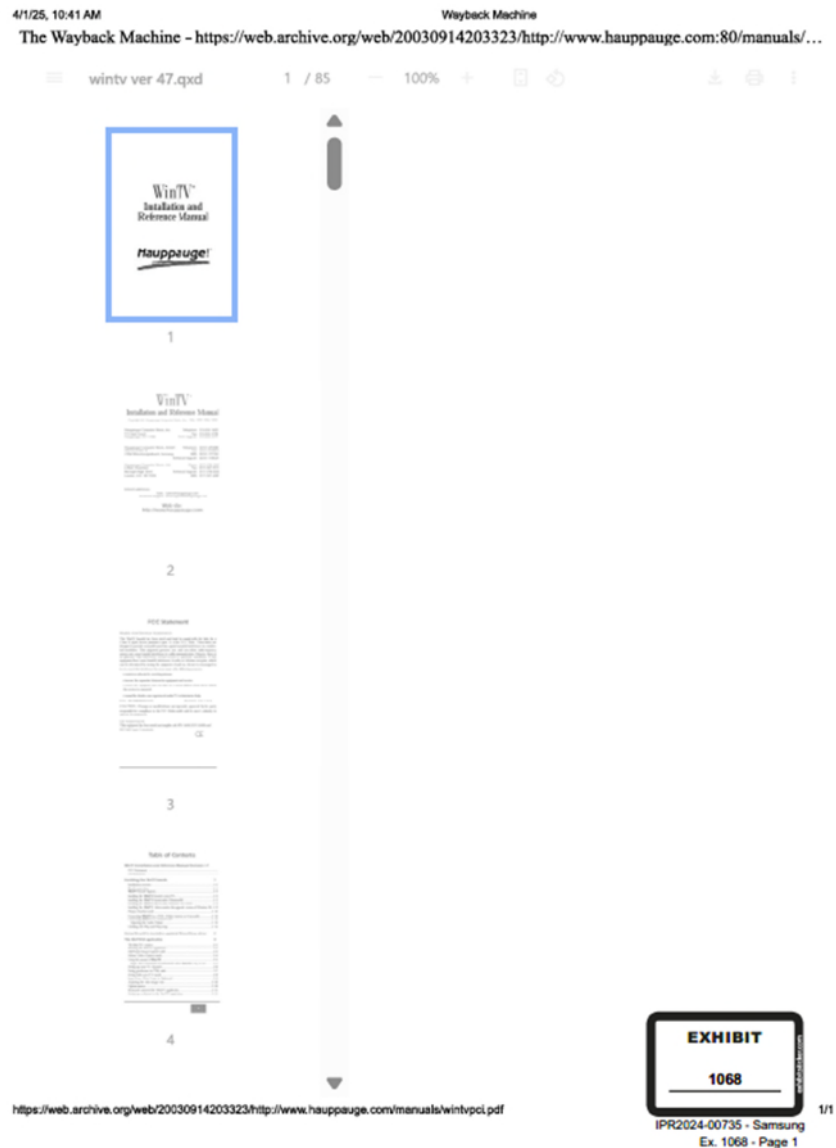


881 chip

WinTV 881 based PCI boards
[Software updates and utilities page](#)
[QuickInstall manual \(PDF\)](#)

Dr. Balakrishnan clicked for a third time on the yellow highlighted “Installation manual (PDF)” link in the “WinTV PCI boards page” (again, not any

bookmark), which resulted in the download of a pdf copy of WinTV that was viewable via the browser as shown below in the screen capture below. EX1068; EX1072, 63:18-66:2.



Dr. Balakrishnan examined the downloaded copy and confirmed that it matched WinTV (EX1010) exactly. EX1072, 65:21-68:10. EX1065-1068 are screen shots of the webpages through which Dr. Balakrishnan navigated from the Hauppauge

homepage to the pdf copy of WinTV with three clicks. Petitioner obtained a declaration from Internet Archive that authenticates each of the aforementioned webpages in EX1065-EX1068 and submitted it with its Reply as EX1073. This evidences establishes that WinTV was publicly accessible from the Hauppauge.com website in September 2003 and therefore constitutes prior art. As such, it is admissible evidence.

After witnessing this demonstration of the public accessibility of WinTV at Dr. Balakrishnan's deposition, a reasonable party would have abandoned this argument. Not Maxell. Instead, Maxell argues that this demonstration of the ability to access WinTV in just three clicks was a "self-serving statement" that is just "attorney argument." Motion, 5. This argument is meritless given that Dr. Balakrishnan - Maxell's own expert - demonstrated that this could be done using authenticated copies of the Hauppauge website from September 2003.

Maxell then argues that "[r]econstruction of a path using modern archival tools does not equate to public accessibility at the relevant time." Motion at 5, citing *Samsung Elecs. Co. v. Infobridge Pte. Ltd.*, 929 F.3d 1363, 1370-72 (Fed. Cir. 2019). First, Maxell's assertion that the use of archived versions of the Hauppauge website on the Wayback Machine to demonstrate accessibility of WinTV was somehow improper is belied by its own use of the same technique to allege the opposite. That this tactic backfired on Maxell does not render it unsound.

Second, *Samsung* says nothing of the sort. Rather, as acknowledged in the Motion that case says “[f]or a document uploaded to a website, a petitioner must present “some evidence that a person of ordinary skill could have reasonably found the website” and then found the document “on that website.” Motion at 3-4 (citing *Samsung*, 929 F.3d at 1369).

Petitioners have presented more than sufficient evidence of precisely that. Some of Petitioners’ challenges rely on Baumgartner, which explicitly suggests including a television tuner card in a PC. EX1016, ¶83; Petition at 54. As demonstrated above, WinTV is a manual for a television tuner card product that can be inserted into a PCI slot on a PC. EX1067, 1; EX1010, 10-12. Petitioners have submitted multiple prior art patents that reference Hauppauge as the manufacturer of WinTV television tuner card products. EX1037, 2:6-8 (“the WIN TV-D board, Hauppauge Computer Works”); EX1038, 3:51-55 (“WIN-TV cards (here made by Hauppauge Computer Works, Inc. . . .)”); EX1051 at 5:31-32 (“a Hauppauge WinTV video capture circuit”); EX1053, ¶[0096] (“a Hauppauge WinTV card”). Dr. Bederson also testified that a POSITA would have been familiar with the Hauppauge WinTV products, which was one of only two tuner cards supported by the Windows Media PC with which he was personally familiar. EX1003, ¶101; EX1039, 4. In view of this information, a POSITA interested in TV tuner cards as suggested by Baumgartner would have been able to locate the

Hauppauge.com website using reasonable diligence, and Maxell does not argue otherwise. Once there, a POSITA exercising reasonable diligence in September 2003 would have been able to navigate to the WinTV manual with just three clicks of a mouse as demonstrated by Dr. Balakrishnan.

Maxell then argues that “the recitation of numerals embedded into a URL” in the Hauppauge.com web pages on the Wayback Machine “is not a statement of publication date or public accessibility,” citing *ACTV, Inc. v. Walt Disney Co.*, 346 F.3d 1082, 1084-85, 1090-92 (Fed. Cir. 2003). Motion, 5-6. This argument ignores the declaration from Internet Archive that explains that those URLs do indicate the date on which the webpage was captured. E.g., EX1073, page 1, ¶5 (explaining dates encoded in URLs). The *ACTV* case is inapposite because it has nothing to do with Internet Archive URLs. The capture of those webpages by Internet Archive is itself evidence of the public availability of those web pages, and the accessibility of WinTV was demonstrated by Dr. Balakrishnan as discussed above.

Maxell also repeatedly emphasizes that some of the aforementioned evidence was not in the Petition. However, it is entirely proper for a Petitioner to submit evidence establishing the prior art status and public accessibility of a reference during trial as discussed in the following cases, all of which were cited in Petitioners’ Motion to Submit Supplemental Information (Paper 16 at 6-7) and ignored in Maxell’s Motion: *Group III Int’l, Inc. v. Targus Int’l LLC*, IPR2021-

00371, Paper 34, at 4-6 (P.T.A.B., Sept. 17, 2021), *Valeo North America, Inc. v. Magna Electronics, Inc.*, IPR2014-01204, Paper 26 at 4-5 (P.T.A.B., Apr. 10, 2015); *1964 Ears, LLC v. Jerry Harvey Audio Holdings, LLC*, IPR2017-01084, Paper 17 (P.T.A.B., Dec. 14, 2017) (Board granting motion to file supplemental information of Internet Archive affidavit to prove publication of reference); *Crestron Electronics, Inc. v. Intuitive Building Controls, Inc.*, IPR2015-01379, Paper 27 at 4-5 (Feb. 2, 2016) (Board granting motion to file supplemental information of Internet Archive affidavit to prove publication of reference for which trial was instituted); *Samsung Electronics Co., Ltd. v. Ibex PT Holdings Co., Ltd.*, IPR2018-00094, Paper 14 at 3-6 (P.T.A.B., July 24, 2018) (granting motion to file supplemental information regarding public availability of references). The Institution Decision itself invited the submission of additional evidence on this issue. Paper 12, 19-20. Maxell's argument concerning the different URLs in the Petition and navigated to by Dr. Balakrishnan during his deposition (Motion at 6-7) fails because there is no dispute that the copy of WinTV navigated to by Dr. Balakrishnan was identical to EX1010 as confirmed by Dr. Balakrishnan himself.

5. WinTV Was Also Publicly Accessible Via Sales of Corresponding WinTV Products

As discussed in Petitioners' Reply (Paper 24, 19-21), there is also substantial evidence that the WinTV products with which WinTV (i.e., the manual) was distributed were on sale in the United States prior to the earliest possible priority

date for the '815 patent. This evidence includes EX1011, EX1055, and EX1056, which are Hauppauge webpages from September and November 1999 showing WinTV products on sale on those pages, and EX1054, which identifies brick-and-mortar locations where WinTV products were on sale. EX1057 authenticates these pages. Maxell argues that EX1011 is irrelevant but offers no explanation as to why this is so. Motion, 9. Absent such a showing, there is no basis for excluding EX1011 or any other on-sale evidence including EX1056, EX1055 and EX1056. This evidence further establishes the public accessibility and prior art status of WinTV.

6. Maxell Has Not Established That Exhibits 1003, 1008, 1011, 1051-1057, 1065-1068 Or 1073 Should Be Excluded

Maxell's primary argument is that all of these exhibits should be excluded because they do not show that WinTV was publicly accessible. Motion, 5. This argument, as well as specific arguments concerning these exhibits, fail for the reasons discussed above.

B. There Is No Basis to Exclude Any Part of EX1072

Maxell also seeks to exclude the portions of Dr. Krishnan's deposition testimony in EX1072 discussed above. That testimony was given under oath, pertains to the Hauppauge.com website that was available prior to the alleged invention of the '815 patent, and is relevant because it demonstrates accessibility of WinTV for the reasons discussed above. Moreover, this testimony was recorded

while Dr. Balakrishnan was navigating the archived Hauppauge.com website and explains his observations, and is thus admissible as a present sense impression under FRE 803(1). This deposition testimony also contradicts Dr. Balakrishnan's contrary testimony in EX2040, ¶¶96-104 that WinTV was not accessible on the Hauppauge.com website because a POSITA could not navigate to it, which makes this deposition testimony admissible under FRE 804(b)(1). Additionally, upon information and belief, Dr. Balakrishnan (a resident of Canada; EX2040, 159) will not be within 100 miles of Alexandria, Virginia on the day of the oral argument, so his testimony is also admissible under FRE 804(a)(5)(A).

C. Wong (EX1007) Is Admissible Because It Is Prior Art

The only basis on which Maxell objects to Wong is Maxell's allegation that Wong is not prior art. Motion, 10. The status of Wong as prior art depends solely on whether the Challenged Claims (claims 16-27) are entitled to their claimed priority date, which is Maxell's burden to establish. None of the Challenged Claims are entitled to a priority date earlier than Wong for the reasons articulated in the Petition (Paper 1) at 9-15 and in the Reply (Paper 24) at 26-30. Wong therefore constitutes prior art and is admissible.

III. CONCLUSION

Maxell's Motion should be denied in its entirety for the reasons discussed above.

Date: July 25, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e) and 42.105(b), the undersigned hereby certifies that a copy of the foregoing, Reply to Patent Owner's Opposition to Petitioners' Motion to Submit Supplemental Information Pursuant to 37 C.F.R. §42.123(a), was provided to the Patent Owner by emailing a copy of same (by agreement) to the following attorneys of record and email addresses for the Patent Owner:

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