UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

THETA IP, LLC,
Patent Owner.

Case IPR2024-00820
U.S. Patent No. 11,638,210

PATENT OWNER THETA IP LLC'S OBJECTIONS TO PETITIONER'S REPLY EVIDENCE

Pursuant to the Federal Rules of Evidence and 37 C.F.R. § 42.64(b)(1), Patent Owner Theta IP LLC ("Theta") objects to the admissibility of the following evidence submitted by Petitioner Apple on June 20, 2025 with its Petitioner's Reply. These objections are timely as made within five business days of service of the evidence. Theta objects to the evidence as follows:

The exhibit is improper under the rules of evidence, the statutes governing *inter partes* review, and is submitted in contravention to the rules of practice and procedure here. Theta hereby provides notice to Petitioner that Theta will move to strike (if authorized) and/or to exclude this exhibit as improper evidence.

I. Exhibit 1042: Reply Declaration of Professor Abidi

Theta objects to this exhibit and any reference to or reliance thereon.

Theta objects to this exhibit as untimely because Petitioner should have and could have introduced it in the Petition. *See* 37 C.F.R. § 42.104(b); 37 C.F.R. § 42.23(b).

Theta objects to this exhibit because and to the extent that it presents improper testimony as to new matters on Reply.

Theta objects to this exhibit because Petitioner has failed to state its relevance or to identify specific portions of the evidence that support any challenge. See 37 C.F.R. § 42.104(b).

Theta objects to this document under FRE 401, 402 and 403 because Petitioner has not demonstrated that this exhibit tends to make any fact of consequence more or less probable. The exhibit is objected to as cumulative, irrelevant, confusing, beyond the proper scope of the Petition or Opposition, and of minimal probative value under FRE 401, 402 and 403—including because the exhibit is offered without explanation establishing any relevant purpose.

In addition, the exhibit is objected to as prejudicial far in excess of any probative value under FRE 403—including because it is offered with no opportunity for Theta to provide rebuttal testimony concerning the exhibit. As such, Theta has been denied a meaningful opportunity to respond pursuant to the requirements of Due Process and the Administrative Procedure Act.

In addition, the exhibit is objected to because Petitioner Apple has not sought authorization to, has failed to, and cannot, meet the requirements of 37 C.F.R. § 42.123 for the admission of supplemental information more than one month after the date of institution. The exhibit is supplemental information that is improper and untimely under 37 C.F.R. § 42.123.

Dated: June 27, 2025

Respectfully submitted,

/s/ Aaron R. Hand
Aaron R. Hand, Lead Counsel
Reg. No. 80,694

Corey Johanningmeier, Back-Up Counsel
(*pro hac vice*)
BUNSOW DE MORY LLP
701 El Camino Real
Redwood City, CA 94063
Telephone: 650-351-7248
Facsimile: 415-426-4744
ahand@bdiplaw.com
cjohanningmeier@bdiplaw.com

Counsel for Patent Owner

CERTIFICATE OF SERVICE

Petitioners have consented to e-mail service in this proceeding. Pursuant to 37 C.F.R. §42.6, the undersigned certifies that on June 27, 2025, a copy of the foregoing document was served by email upon the following counsel at the below email addresses:

Paul R. Hart, (Reg. No. 59,646)
Paul.Hart@eriseip.com
ERISE IP, P.A.
717 17th St., Suite 1400
Denver, Colorado 80202
Telephone: (913) 777-5600
Fax: (913) 777-5601

Adam P. Seitz (Reg. No. 52,206)
Adam.Seitz@eriseip.com
ERISE IP, P.A.
7015 College Blvd., Suite 700
Overland Park, Kansas 66211
Telephone: (913) 777-5600
Fax: (913) 777-5601

Dated: June 27, 2025

/s/ Aaron R. Hand

Aaron R. Hand
Reg. No. 80,694
BUNSOW DE MORY LLP
701 El Camino Real
Redwood City, CA 94063
Telephone: 650-351-7248
Facsimile: 415-426-4744
ahand@bdiplaw.com

Lead Counsel for Patent Owner