**IN 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

---

**Case: IPR2024-00907**

**U.S. Patent No. 10,129,590**

---

# PATENT OWNER'S OBJECTIONS TO EVIDENCE UNDER 37 C.F.R. § 42.64(B)(1)

Mail Stop **Patent Board**
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

# I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.64(b)(1) and the Federal Rules of Evidence ("F.R.E."), the undersigned counsel, on behalf of Patent Owner, hereby serves and submits the following objections to evidence submitted by Petitioner accompanying Petitioner's Petition for *Inter Partes* Review. These objections are timely because they are filed within ten business days of institution of trial.

# II. OBJECTIONS

## A. Ex. 1002 (Creusere Declaration)

Patent Owner objects to Exhibit 1002, and any reference to or reliance on this exhibit, on the following grounds:

**37 C.F.R. § 42.61 (Admissibility of evidence):** This exhibit is not admissible under any applicable rule of the Patent Trial and Appeal Board.

**37 C.F.R. § 42.65 (Expert Testimony):** This exhibit includes expert testimony that does not disclose the underlying facts or data on which the opinion is based.

**F.R.E. 401/402 (Relevance):** This exhibit is not relevant to any ground upon which trial was instituted. For example, this exhibit includes discussion of various documents (*e.g.*, Exs. 1019-1023), which have no bearing on whether the challenged claims are patentable under 35 U.S.C. § 103, the grounds of institution in this proceeding (*e.g.*, ¶¶ 66, 75).

**F.R.E. 403 (Excluding evidence for prejudice, confusion, waste of time, or for other reasons):** This exhibit includes information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence (*e.g.*, ¶¶ 66, 75).

**F.R.E. 602 (Need for Personal Knowledge):** This exhibit includes statements and testimony made without any personal knowledge, including and not limited to, what a POSITA would have understood at the time of the invention (*e.g.*, ¶¶ 66, 68, 73, 75, 76, 102, 104, 105, 126, 129, 130, 150, 153, 155, 196, 221, 224, 227, 242, 245, 268, 270), or what components were "well-known" or "conventional" at the time of the invention (*Id*. at ¶¶ 30, 76, 104, 222).

**F.R.E. 702/703 (Expert testimony):** This exhibit includes statements and testimony on topics, including and not limited to, the state of the art at the time of the '590 Patent. This exhibit includes statements and testimony that are not based on sufficient facts and data, nor is it the product of reliable principles and methods (*e.g.*, ¶¶ 52, 67-218, 219-235, 266-300). Further, the relied upon facts and data are not those on which experts in this field would reasonably rely.

**F.R.E. 801/802/805 (Hearsay):** This exhibit includes inadmissible hearsay and/or double hearsay with no applicable exceptions. For example, at least the referenced dates of Exs. 1010, 1014, 1015, and 1017, and testimony surrounding

them are inadmissible hearsay to prove the publication dates of the documents/information or the dates when the documents/information was publicly accessible or publicly available (*e.g.*, ¶¶ 52, 67-218, 219-235, 266-300).

**B. Exhibit 1007**

Patent Owner objects to Exhibit 1007 and any reference to or reliance on this exhibit, on the following grounds:

**37 C.F.R. § 42.61 (Admissibility of evidence):** This exhibit is not admissible under any applicable rule of the Patent Trial and Appeal Board.

**F.R.E. 401/402 (Relevance):** This exhibit and its references in the record are not relevant because neither Petitioner nor its expert have provided any admissible evidence establishing their date of publication or the date that the documents became publicly accessible or publicly available.

**F.R.E. 403 (Excluding evidence for prejudice, confusion, waste of time, or for other reasons):** This exhibit includes information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.

**F.R.E. 801/802/805 (Hearsay):** This exhibit include inadmissible hearsay and/or double hearsay with no applicable exceptions. For example, this exhibit is inadmissible hearsay as to the date of publication or the date when the documents

were publicly accessible or publicly available (*e.g.*, Exhibits 1010, 1014-1015, 1018). Additionally, Petitioner has provided no admissible evidence establishing the date of publication or the date when the documents were publicly accessible or publicly available.

### C. Exhibits 1010, 1014, 1015, 1017, 1018

Patent Owner objects to Exhibits 1010, 1014, 1015, 1017, and 1018 and any reference to or reliance on these exhibits, on the following grounds:

**37 C.F.R. § 42.61 (Admissibility of evidence):** These exhibits are not admissible under any applicable rule of the Patent Trial and Appeal Board.

**F.R.E. 401/402 (Relevance):** These exhibits and their references in the record are not relevant because neither Petitioner nor its expert have provided any admissible evidence establishing their date of publication or the date that the documents became publicly accessible or publicly available.

**F.R.E. 403 (Excluding evidence for prejudice, confusion, waste of time, or for other reasons):** These exhibits include information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.

**F.R.E. 801/802/805 (Hearsay):** These exhibits include inadmissible hearsay and/or double hearsay with no applicable exceptions. For example, these exhibits

are inadmissible hearsay as to the date of publication or the date when the documents were publicly accessible or publicly available. Additionally, Petitioner has provided no admissible evidence establishing the date of publication or the date when the documents were publicly accessible or publicly available.

**F.R.E. 901/902 (Authentication):** These exhibits are inadmissible because they are not properly authenticated and they are not self-authenticating.

**D. Exhibits 1019-1023**

Patent Owner objects to Exhibits 1019-1023 and any reference to or reliance on these exhibits, on the following grounds:

**37 C.F.R. § 42.61 (Admissibility of evidence):** These exhibits are not admissible under any applicable rule of the Patent Trial and Appeal Board.

**F.R.E. 401/402 (Relevance):** These exhibits and their references in the record are not relevant to any ground upon which trial was instituted. For example, these exhibits have no bearing on whether the challenged claims are patentable under 35 U.S.C. § 103, the grounds of institution in this proceeding.

**F.R.E. 403 (Excluding evidence for prejudice, confusion, waste of time, or for other reasons):** These exhibits include information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger

of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.

## III. CONCLUSION

For at least the foregoing reasons, Patent Owner objects to Exhibits 1002, 1007, 1010, 1014, 1015, and 1017 - 1023.

Dated: December 23, 2024

Respectfully submitted,

/Robert G Pluta Reg No 50970 /
Robert G. Pluta (Reg. No. 50,970)
MAYER BROWN LLP
71 S. Wacker Drive
Chicago, IL 60606
Telephone: (312) 701-8641
Fax: (312) 706-8144
rpluta@mayerbrown.com

Saqib J. Siddiqui (Reg. No. 68,626)
MAYER BROWN LLP
1999 K Street NW
Washington, D.C., 20006
ssiddiqui@mayerbrown.com

*Counsel for Maxell, Ltd.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 23rd day of December, 2024, a copy of the attached PATENT OWNER'S OBJECTIONS UNDER 37 C.F.R. § 42.64(b)(1), was served by electronic mail to the attorneys of record, at the following addresses:

James Heintz
Jim.Heintz@us.dlapiper.com

Gianni Minutoli
Gianni.Minutoli@us.dlapiper.com

With a courtesy copy by electronic mail to:

dla-samsung-maxell@us.dlapiper.com

Respectfully submitted,

Date: December 23, 2024 By: /Robert G Pluta Reg No 50970/
Robert G. Pluta (Reg. No. 50,970)

*Counsel for Maxell, Ltd.*