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.: IPR2024-00907

PETITIONERS' REPLY TO PATENT OWNER'S OPPOSITION TO THE PETITIONERS' MOTION TO SUBMIT SUPPLEMENTAL INFORMATION PURSUANT TO 37 C.F.R. §§ 42.123(a)

Petitioners file this Reply Pursuant to the Board's January 27, 2025 order (Paper 15). Petitioners filed their motion (Paper 16, "Mot.") to submit EX1032-EX1033 as supplemental information relating to public accessibility of EX1010 ("N93"), EX1014 ("BT-Spec"), and EX1015 ("3GPP-Spec"). Mot., 1. Petitioners also submitted EX1034-EX1051 with its motion showing Petitioners' diligence. *Id.* Contrary to Patent Owner's (PO's) assertions in its opposition (Paper 17, "Opp."), the supplemental information properly supports the theory in the petition that N93, BT-Spec, and 3GPP-Spec were publicly accessible. PO complains about the size of EX1032 (Opp., 4), but Petitioners were not comfortable altering a sworn declaration by selectively omitting pages. Mot., 5. Petitioners note they do not rely on pages 7-31, 46-1272 of EX1032. To the extent the Board is concerned with the size of EX1032 and would prefer (and will accept) an abridged declaration, Petitioners are amenable to filing such an abridged declaration that omits those pages.

A. The Supplemental Information Will Not Prevent the Just, Speedy, and Inexpensive Resolution of this Proceeding

PO incorrectly suggests that the supplemental information will prevent the just, speedy, and inexpensive resolution of this proceeding. Opp., 4-5. The size of EX1032 is not relevant as pages 7-31, 46-1272 are not relevant (as PO notes) and are not relied on by Petitioners. And Petitioners are amenable to mooting any such concern, subject to the Board's approval. There is no due process concern (Opp., 4)

as PO may address this supplemental information. And PO's concern that there is a "moving target" (Opp., 5) is incorrect as explained below.

B. EX1032-EX1033 Do Not Change the Grounds of Unpatentability Or Supporting Evidence

EX1032-EX1033 do not change the grounds of unpatentability or supporting evidence (Opp. at 5-8), because they merely provide supplemental information showing public accessibility of N93, BT-Spec, and 3GPP-Spec. The Board has already determined, based on a previously submitted Internet Archives declaration (EX1007), "that Petitioner has sufficiently shown the public accessibility of N93, 3GPP-Spec, and BT-Spec." Paper 11 (D.I), 25. However, PO suggested a POSITA may have been unable to locate these documents. Paper 7 (POPR), 20-23. EX1032-EX1033 are proper supplemental information showing that a POSITA would have been able to find N93, BT-Spec, and 3GPP-Spec.

Regarding EX1010 (N93), Petitioners do not "move away" from any theory regarding N93 as asserted by PO. Opp., 6. N93 was available at the Nokia's website nokia.com at the relevant time. EX1007 at 2. EX1032-EX1033 show how a POSITA would have been able to find this document at the relevant time. For example, EX1032 at 4-6 includes a true and accurate copy of the Wikipedia page for the Nokia N93 product archived on October 15, 2007. EX1032, 4 (Wikipedia URL), 5-6 (Wikipedia page). The link "Online copy of the N93 Manual (PDF)" under External links (EX1032, 5) is the link to N93 at the URL on the nokia.com

website. EX1032, 733. EX1032 also includes true and accurate copies of other pages of Nokia's website, confirming a POSITA could have found N93 from within that website as well, although the last link to the pdf of N93 is no longer operable. EX1032, 38-39 (N93 Phone page with link to "Device Features"), 40-43 (N93 Phone feature page with link to "User Guides"), 44-45 (User Guides page with inoperable link to the pdf of N93). EX1033 includes, same as EX1032, a true and accurate copy of the Wikipedia page for Nokia N93 archived on October 15, 2007 with a link to the above-identified Nokia webpage. *See* EX1033, 4-6.

Regarding EX1014 (BT-Spec), EX1033 includes true and accurate copies of pages from the Bluetooth website (archived on February 24, 2006) showing how a POSITA could have found BT-Spec. EX1033, 19-20 (main website), 21-22 (after clicking "Learn" on the main website), 23-24 (after clicking on "Bluetooth Technology" on the previous page), 25-26 (after clicking "Specification Documents" on the previous page); Mot., 6. PO concedes that "Petitioner[s] present[] archived links to the Bluetooth website." Opp., 7. The "Specification Documents" web page shows the link for BT-Spec ("Core Specification v2.0+EDR) under "Bluetooth Core Specifications." EX1033, 26. BT-Spec itself was archived on February 24, 2006. EX1007, 2, 193-1423. Therefore, PO's attempt to imply that the BT-Spec itself was not archived (Opp. at 7) is without merit.

Regarding EX1015 (3GPP-Spec), EX1033 includes true and accurate copies of pages from the 3GPP website (archived on January 5-7, 2007) showing how a POSITA could have found 3GPP-Spec. EX1033, 7-8 (main webpage), 9-13 (after clicking "Specifications" on the main webpage), 14-15 (after clicking "specifications file server area" in the previous webpage), 16-18 (after clicking "Latest-drafts" in the previous webpage to get to "36211-021.zip"); Mot., 6. PO asserts that 3GPP.org is "notoriously difficult-to-navigate" (Opp. at 7), but does not explain why a POSITA *would not* or *could not* have found it, and any purported "difficulty" merely goes to the weight of the evidence. PO incorrectly implies that 3GPP-Spec itself was not archived (Opp., 8) but 3GPP-Spec itself was archived on December 7, 2007. *Compare* EX1033, 16-17 (www.3gpp.org/ftp/Specs/Latest-drafts/"), 18 ("36211-021.zip") *with* EX1007, 2 ("www.3gpp.org/ftp/Specs/Latest-drafts/36211-021.zip"), 141-192 (contents of zip file includes clean version at 141-164 and redline with the previous version at 165-192) *and* EX1015 (excerpting the clean version for use in the Petition). Thus, this supplemental information goes to precisely what Petitioners rely on in the Petition and PO is incorrect to suggest otherwise. Opp., 8.

PO's cases are distinguishable because they all relate to improper attempts to change grounds, e.g., by adding new prior art references. *Redline Detection, LLC v. Star Envirotech, Inc., Inc.*, 811 F.3d 435, 443 (new expert declaration and two new

references), fn. 3 (admitting intentional delay); *Western Digital Corp. v. Spex Techs., Inc.*, IPR2018-00082, Paper 22 at 4, 7-9 (PTAB Jul. 23, 2018) (expert testimony and declaration amending grounds); *Am. Well Corp. v. Teladoc Health, Inc.*, IPR2021-00748, Paper 23 at 3, 10-11, 13 (PTAB Feb. 28, 2022) (expert declaration addressing omissions and errors pointed out by the Board); *Duration Media LLC v. Rich Media Club LLC*, IPR2023-00953, Paper 21 at 3-6 (PTAB Oct. 12, 2023) (two new prior art references); *Ooma, Inc. v. Deep Green Wireless LLC,* IPR2017- 01541, Paper 14 (PTAB Jan. 23, 2018) (information pertaining to the level of ordinary skill in the art); *Artesian Home Prods. v. Gutterglove, Inc.,* IPR2018-00031, Paper 24, 2-3 (PTAB May 31, 2018) (new prior art reference—CIP parent of asserted prior art).

C. EX1032-EX1033 are Not Supplemental Evidence

PO's argument that EX1032-EX1033 are supplemental evidence (Opp., 8-10) is without merit because they are being used to support the previously made arguments in the Petition. Mot., 5-6 (explaining), 7 (citing authority for same). PO fails to explain how EX1032-EX1033 could be responsive to PO's hearsay and authenticity objections. Opp., 10. Regardless, Petitioners did not serve any such supplemental evidence and the record before the Board is clear. EX2016, 7:18-22.

Accordingly, Petitioners respectfully request that their motion be granted for the reasons set forth in the motion and the additional reasons discussed above.

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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, Petitioners' Reply to Patent Owner's Opposition to the Petitioner's 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 for the Patent Owner:

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A courtesy copy was sent electronically to counsel for Patent Owner in the District Court Litigation:

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