

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROCHIP TECHNOLOGY INC.,
Petitioner,

v.

APTIV TECHNOLOGIES AG,
Patent Owner.

Patent No. 11,681,643

Post Grant Review No. PGR2024-00011

PATENT OWNER'S OBJECTIONS TO SUPPLEMENTAL EVIDENCE

Patent Owner Aptiv Technologies AG (“Patent Owner” or “Aptiv”) hereby objects to the following evidence that was served by Petitioner Microchip Technology, Inc. (“Petitioner” or “Microchip”) on August 12, 2024 in the above-captioned proceeding. In accordance with 37 C.F.R. § 42.64(b)(1), these objections are being timely filed and served within five (5) business days of service of evidence to which these objections are directed.

A. First Supplemental Declaration of Eric Welch

Patent Owner objects to the First Supplemental Declaration of Eric Welch as irrelevant, lacking foundation, assuming facts not in evidence, calling for legal conclusion, and mischaracterizing evidence. Patent Owner further objects to the First Supplemental Declaration of Eric Welch to the extent that it includes expert opinions for which the factual bases have not been disclosed, for which Mr. Welch does not have personal knowledge (FRE 602), and to the extent that Mr. Welch’s opinions constitute unreliable expert testimony under FRE 702 and 703.

Patent Owner objects to the portions of the First Supplemental Declaration of Eric Welch not discussed or cited in the Petition, 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 Petition, Patent Owner has had no fair opportunity to respond to Petitioner’s unstated contentions (if any) regarding the same. Such information is irrelevant and its consideration would be unfairly prejudicial to

Patent Owner. In fact, the First Supplemental Declaration of Eric Welch is neither discussed nor cited in the Petition at all and is therefore irrelevant to any issue on which trial has been instituted. Because it was not discussed, Patent Owner has had no fair opportunity to respond to Petitioner's unstated contentions (if any) regarding the same. Accordingly, the First Supplemental Declaration of Eric Welch is irrelevant and its consideration would be unfairly prejudicial to Patent Owner.

B. 2012 Annual Report of Fairchild Semiconductor International, Inc.

Patent Owner objects to the 2012 Annual Report of Fairchild Semiconductor International, Inc. ("the Fairchild 10-K") as lacking foundation and lacking authentication under FRE 901.

Patent Owner objects to the Fairchild 10-K 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 802. Further, Petitioner fails to offer any evidence that the Fairchild 10-K was publicly accessible in its presented form as of the alleged publication date. Petitioner fails to offer any evidence that the Fairchild 10-K is what Petitioner claims it to be. Additionally, Petitioner offers no evidence that a person of skill in the art would have relied upon this document at the time of the challenged patent's priority date.

Patent Owner objects to the portions of the Fairchild 10-K not discussed or cited in the Petition, 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 Petition, Patent Owner has had no fair opportunity to respond to Petitioner's unstated contentions (if any) regarding the same. Such information is irrelevant and its consideration would be unfairly prejudicial to Patent Owner. In fact, the Fairchild 10-K is neither discussed nor cited in the Petition at all and is therefore irrelevant to any issue on which trial has been instituted. Because it was not discussed, Patent Owner has had no fair opportunity to respond to Petitioner's unstated contentions (if any) regarding the same. Moreover, the document's single mention of "USB switches" as an example of "signal path products" offered by Fairchild Semiconductor is not relevant to any of Exhibits 1059, 1060, 1068, and 1071, or to any issue on which trial has been instituted. Accordingly, the Fairchild 10-K is irrelevant and its consideration would be unfairly prejudicial to Patent Owner.

PGR2024-00011

Dated: August 19, 2024

Respectfully submitted,

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Counsel for Patent Owner

Certificate of Service (37 C.F.R. § 42.6(e)(4))

I hereby certify that the attached PATENT OWNER'S OBJECTIONS TO SUPPLEMENTAL EVIDENCE was served as of the below date on the Petitioner via e-mail (by agreement) to the following counsel of record:

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Dated: August 19, 2024

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