

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner

v.

NETLIST, INC.,
Patent Owner

Case PGR2025-00071
U.S. Patent No. 12,308,087

PATENT OWNER'S OBJECTIONS TO EVIDENCE

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

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Patent Owner Netlist, Inc. (“Patent Owner”) objects under the Federal Rules of Evidence (FRE) and 37 C.F.R. § 42.64(b)(1) to the admissibility of Exhibits 1003, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1042, 1044, 1046, 1052, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1067, 1068, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1085, 1086, 1091, 1092, 1093, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1119, 1126, 1127, and 1129 (the “Challenged Evidence”), filed by Petitioner Samsung Electronics Co., Ltd. (“Petitioner”) with its Petition and other pre-institution papers.

Patent Owner’s Objections are timely filed under 37 C.F.R. § 42.64(b)(1), within ten business days of the February 18, 2026 Institution Decision. Patent Owner files these Objections to provide notice to Petitioner that Patent Owner may move to exclude the Challenged Evidence under 37 C.F.R. § 42.64(c).

I. IDENTIFICATION OF GROUNDS FOR OBJECTIONS

A. EX1003 – Dr. Wolfe’s Declaration; EX1093 – Unsigned Claim Chart

Patent Owner objects to Exhibit 1003 and Exhibit 1093 to the extent Petitioner relies on Exhibits 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1027, 1028, 1029, 1030, 1031,

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Patent Owner also objects to Exhibit 1003, including at least ¶¶58-390, and the entirety of Exhibit 1093, as improper expert testimony under FRE 702, 703, and 37 C.F.R. § 42.65. There has not been an adequate showing that Dr. Wolfe's testimony is based on sufficient facts or data, is the product of reliable principles or methods, or that the testimony will help the Board understand the evidence or determine a fact in issue.

Patent Owner further objects to ¶¶1-57, 62-67, 71-82, 84, 97, 105, 107-108, 118-119, 127-128, 134-135, 141-142, 152-154, 158, 160, 164-165, 169-171, 203-

205, 210-212, 214-216, 219-221, 224-225, 230-232, 234-236, 244-246, 250-252, 254-256, 258-260, 265-267, 274-277, 282-284, 287-289, 291-294, 298-299, 302, 304, 306-310, 313-315, 318-320, 322-323, 325-326, 328-329, 339-340, 342-343, 345-347, 352-354, 356-357, 359-360, 362, 365, 368, 372, 377, 382-383, 385, and 388 of Exhibit 1003, and the entirety of Exhibit 1093, as being irrelevant under FRE 401, 402, and 403 because they have not been relied upon in support of any argument made in the Petition.

Patent Owner further objects to Exhibit 1093 under 37 C.F.R. § 42.53(a). Exhibit 1093 is a 202-page, unsigned “claim chart” for Grounds 3 and 4 presented in the Petition. Rule 42.53(a) requires that “[u]ncompelled direct testimony must be submitted in the form of an affidavit.” 37 C.F.R. § 42.53(a). Exhibit 1093 is not in the form of an affidavit or declaration, it lacks the required perjury statement, and is unsigned. Patent Owner also objects to Exhibit 1093 as impermissible hearsay under FRE 801 and 802 to the extent this exhibit is offered for the truth of the matters asserted. Petitioner has not identified any applicable exception or exclusion to the rule against hearsay that applies to this exhibit.

B. Exhibits 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1042, 1044, 1046, 1052, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1067, 1068, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082,

1085, 1086, 1091, 1092, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1119, 1126, 1127, and 1129.

Patent Owner objects to Exhibits 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1042, 1044, 1046, 1052, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1067, 1068, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1085, 1086, 1091, 1092, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1119, 1126, 1127, and 1129 for one or more of the following reasons.

1. Exhibits that were not cited or discussed in the Petition or Dr. Wolfe’s Declaration or in any other pre-institution briefing.

Exhibits 1011, 1012, 1013, 1020, 1021, 1024, 1025, 1027, 1028, 1029, 1031, 1032, 1033, 1034, 1037, 1039, 1041, 1042, 1052, 1054, 1055, 1057, 1058, 1060, 1061, 1062, 1063, 1064, 1065, 1067, 1080, 1085, 1086, and 1119 were not cited or discussed in the Petition, in Dr. Wolfe’s declaration, or in any other pre-institution briefing. Rule § 42.104(b)(5) requires the Petition “identify[] specific portions of the evidence that support the challenge,” and provides that “[t]he Board may exclude or give no weight to the evidence where a party has failed to state its relevance or to identify specific portions of the evidence that support the challenge.”

Patent Owner objects to these exhibits under FRE 401, 402, and 403, as well as 37 C.F.R. § 42.104(b)(5), for including information that is irrelevant because, among other things, they do not form a basis of the instituted grounds, and their probative value to any ground upon which trial was instituted is substantially outweighed by other considerations such as danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.

2. Exhibits not cited or discussed in the Petition, and which cannot be incorporated by reference from Dr. Wolfe's Declaration.

Exhibits 1006, 1007, 1008, 1009, 1010, 1014, 1069, 1070, 1071, 1075, 1076, 1091, and 1092 were not cited or discussed in the Petition. These exhibits were cited or discussed in Dr. Wolfe's declaration, but to consider them would constitute an improper incorporation by reference under 37 C.F.R. § 42.6(a)(3).

Patent Owner objects to these exhibits under FRE 401, 402, and 403, as well as 37 C.F.R. §§ 42.6(a)(3) and 42.104(b)(5), for including information that is irrelevant because, among other things, they do not form a basis of the instituted grounds, and their probative value to any ground upon which trial was instituted is substantially outweighed by other considerations such as danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.

3. Papers and Exhibits from other PTAB, ITC, Federal Circuit, and district court proceedings.

Exhibits 1027, 1029, 1032, 1033, 1042, 1044, 1046, 1052, 1054, 1061, 1065, 1066, 1067, 1068, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1091, 1092, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, and 1129 are various Papers, Briefs, Orders, and Exhibits from *other* PTAB, ITC, Federal Circuit, and district court proceedings, related to *other* patents, and *not* the '087 patent at issue in this proceeding.

Patent Owner objects to these exhibits under FRE 401, 402, and 403 for including information that is irrelevant because, among other things, they do not form a basis of the instituted grounds, and their probative value to any ground upon which trial was instituted is substantially outweighed by other considerations such as danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence. Patent Owner further objects to these exhibits, to the extent they are cited in the Petition and other briefing without explanation, as being improperly incorporated by reference under 37 C.F.R. § 42.6(a)(3).

Patent Owner also objects to these exhibits as impermissible hearsay under FRE 801 and 802 to the extent these exhibits are offered for the truth of the matters asserted. Petitioner has not identified any applicable exception or exclusion to the rule against hearsay that applies to these exhibits.

4. JEDEC documents

Exhibits 1019, 1021, 1035, 1036, 1055, and 1082 are various documents related to the JEDEC standard-setting organization.

Patent Owner objects to these exhibits under FRE 401, 402, and 403 for including information that is irrelevant because, among other things, they do not form a basis of the instituted grounds, and their probative value to any ground upon which trial was instituted is substantially outweighed by other considerations such as danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.

Patent Owner also objects to these exhibits as impermissible hearsay under FRE 801 and 802 to the extent these exhibits are offered for the truth of the matters asserted. Petitioner has not identified any applicable exception or exclusion to the rule against hearsay that applies to these exhibits.

Patent Owner further objects to these exhibits under FRE 901 because Petitioner has not presented evidence sufficient to support a finding that the documents in question are what Petitioner claims them to be. There is no evidence that the documents are self-authenticating under FRE 902.

To the extent any of these exhibits are incomplete versions of the submitted document, Patent Owner further objects to these exhibits under FRE 106 as being incomplete and Petitioner has not produced or otherwise made available the full

content of the documents to Patent Owner, and under FRE 106 as omitting the remainder of writings that ought to be considered at the same time as the respective exhibit.

5. Testimony from other proceedings

Exhibits 1020, 1091, 1092, 1126, and 1127 are declarations originally prepared for other proceedings. Exhibit 1042 is a deposition transcript of Samsung's expert, Dr. Wolfe, from a different set of proceedings. Patent Owner objects to these exhibits as impermissible hearsay under FRE 801 and 802 to the extent these exhibits are offered for the truth of the matters asserted. Petitioner has not identified any applicable exception or exclusion to the rule against hearsay that applies to these exhibits.

6. Other documents

Patent Owner objects to Exhibits 1022, 1023, 1030, 1038, 1040, 1056, 1059, 1063, 1064, and 1081 under FRE 901 because Petitioner has not presented evidence sufficient to support a finding that the documents in question are what Petitioner claims them to be. There is no evidence that the documents are self-authenticating under FRE 902.

Patent Owner also objects to Exhibits 1022, 1023, 1030, 1038, 1040, 1056, 1059, 1063, 1064, and 1081 as impermissible hearsay under FRE 801 and 802 to the extent these exhibits are offered for the truth of the matters asserted. Petitioner

has not identified any applicable exception or exclusion to the rule against hearsay that applies to these exhibits.

Patent Owner further objects to Exhibits 1022 and 1030, under FRE 106 as being incomplete and Petitioner has not produced or otherwise made available the full content of the document to Patent Owner, and under FRE 106 as omitting the remainder of writings that ought to be considered at the same time as Exhibits 1022 and 1030.

II. CONCLUSION

To the extent Petitioner fails to correct the defects associated with the Challenged Evidence in view of Patent Owner's objections herein, Patent Owner may file a motion to exclude the Challenged Evidence under 37 C.F.R. § 42.64(c).

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX PLLC

/ Jennifer Meyer Chagnon /

Jennifer Meyer Chagnon
Registration No. 55,440
Attorney for Patent Owner

Date: March 4, 2026

1101 K Street, NW, 10th Floor
Washington, DC 20005
(202) 371-2600

CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

I certify that the above-captioned **PATENT OWNER'S OBJECTIONS TO EVIDENCE** was served in its entirety on March 4, 2026, upon the following parties via electronic mail:

Eliot D. Williams (Lead Counsel)
Theodore W. Chandler (Back-up Counsel)
Ferenc Pazmandi (Back-up Counsel)
Mark A. Speegle (Back-up Counsel)
BAKER BOTTS, L.L.P.
DLSamsungNetlistIPRs@BakerBotts.com

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX PLLC

/ Jennifer Meyer Chagnon /

Jennifer Meyer Chagnon
Registration No. 55,440
Attorney for Patent Owner

Date: March 4, 2026

1101 K Street, NW, 10th Floor
Washington, DC 20005
(202) 371-2600