

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MASTERCARD INTERNATIONAL INCORPORATED  
Petitioner

v.

LEON STAMBLER  
Patent Owner

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Case Number CBM2015-00044  
Patent 5,793,302

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**PETITIONER'S OBJECTIONS TO EVIDENCE**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner MasterCard International Incorporated (“Petitioner” or “MasterCard”) hereby submits its notice of objections to certain evidence that Patent Owner, Leon Stambler (“Patent Owner”) submitted in connection with its Response to MasterCard’s Petition for Covered Business Method Patent Review.

**I. Objections to Exhibit 2004 (Declaration of Seth Nielson, Ph.D.)**

Petitioner objects to the October 20, 2015 Declaration of Seth Nielson, Ph.D. (“the Nielson Declaration”), submitted as Exhibit 2004 in CBM2015-00044, on the following grounds. *First*, Petitioner objects to Exhibit 2004 on the basis that Dr. Nielson is not qualified as an expert under Federal Rule of Evidence (“FRE”) 702. *Second*, Petitioner objects to the extent Dr. Nielson offers improper expert opinions in violation of 37 C.F.R. § 42.65(a) and/or FRE 702. *Third*, Petitioner objects to Exhibit 2004 to the extent Dr. Nielson’s opinions are not relevant or otherwise admissible under FRE 401-403.

The following chart lists objections to specific paragraphs in Exhibit 2004 and the corresponding grounds for the objections.

¶ Objected to	Basis for Objection
All	FRE 702, because Dr. Nielson is not qualified as an expert in the pertinent field.
19, 20, 21, 22, 36, 37, 38, 39	FRE 401-403, at least because the statements therein are irrelevant and therefore inadmissible, and/or their probative value, if any, is substantially outweighed by a danger of one or

	more of the following: unfair prejudice, confusing the issues, wasting time.
29-35, 40, 46, 48-51, 53-57, 60, 62, 64, 65, 66, 67, 71-76, 83, 84, 86, 87, 88, 89, 90, 91, 93, 94, 95, 96, 97, 98, 99, 100, 101, 103, 104, 106, 107, 108, 109, 110, 111, 113, 115-117, 119, 121, 122, 123, 124	<p>FRE 702, at least because the statements therein are (1) not based on sufficient facts or data; (2) not the product of reliable principles and methods; and/or (3) not the product of Dr. Nielson reliably applying any reliable principles and methods to the facts of the case.</p> <p>FRE 401-403, at least because the statements therein are irrelevant and therefore inadmissible, and/or their probative value, if any, is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, wasting time.</p>
26, 28, 44, 46, 47, 48, 49, 51, 55, 56, 57, 58, 59, 60	FRE 401-403, at least because the statements therein either (1) present claim construction opinions offering constructions different from or absent from this Board's conclusion; and/or (2) present opinions interpreting the claims and/or applying the prior art thereto based on such different constructions. As a result, such paragraphs are irrelevant (under Rule 401), inadmissible (under Rule 402), and should be excluded as prejudicial, confusing and wasteful (under Rule 403).
41, 42, 43, 61, 81, 114, 115, 116, 117, 123	37 C.F.R. § 42.65(a) and/or FRE 702, at least because the statements therein constitute improper expert testimony on patent law and/or patent practice.

Petitioner reserves the right to move to exclude the above testimony.

Petitioner also reserves its right to further challenge the testimony of Dr. Nielson based on its cross-examination of Dr. Nielson.

**II. Objections to Exhibit 2005 (Dr. Whitfield Diffie Deposition Transcript)**

Petitioner maintains its objections to certain testimony in Exhibit 2005 as stated on the record.

Date: October 28, 2015

Respectfully Submitted,

/Robert C. Scheinfeld/

Robert C. Scheinfeld  
BAKER BOTTS L.L.P.  
30 Rockefeller Plaza  
New York, NY 10112

Eliot D. Williams  
BAKER BOTTS L.L.P.  
1001 Page Mill Road  
Building One, Suite 200  
Palo Alto, CA 94304

*Counsel for MASTERCARD  
INTERNATIONAL INCORPORATED*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing PETITIONER'S OBJECTIONS TO EVIDENCE was filed and served electronically via e-mail on October 28, 2015, in its entirety on the following:

Robert P. Greenspoon  
Flachsbart & Greenspoon, LLC  
333 N. Michigan Ave., Suite 2700  
Chicago, IL 60601  
Telephone: (312) 551-9500  
rpg@fg-law.com

/Robert C. Scheinfeld/  
Robert C. Scheinfeld