

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAMSUNG ELECTRONICS CO., LTD AND  
SAMSUNG ELECTRONICS AMERICA, INC.,  
Petitioners,

v.

CELLECT LLC,  
Patent Owner.

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Case IPR2020-00512  
U.S. Patent No. 9,186,052

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**PATENT OWNER'S OBJECTIONS TO EVIDENCE  
UNDER 37 C.F.R. § 42.64**

Patent Owner, Collect, LLC ("Patent Owner"), objects under the Federal Rules of Evidence and 37 C.F.R. § 42.64(b)(1) to the admissibility of the following documents submitted by Petitioners Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. ("Petitioner(s)"), in its Reply to Patent Owner's Response ("Reply"). Paper No. 21.

Petitioner's Reply was filed on February 1, 2021. *Id.* Thus, Patent Owner's objections are timely under 37 C.F.R. § 42.64(b)(1). Patent Owner serves Petitioner with these objections to provide notice that Patent Owner will move to exclude these exhibits as improper evidence.

**I. Reply Declaration of Expert Dr. Dean Neikirk (Ex. 1086)**

Patent Owner objects to the admissibility of the Declaration of Dr. Dean Neikirk ("Neikirk Reply Declaration," Ex. 1086) for at least the following reasons:

1. Dr. Neikirk's opinions are conclusory, do not disclose underlying facts or data in support of his opinions, and are unreliable. Therefore, Dr. Neikirk's opinions are inadmissible under **FRE 702**.
2. Patent Owner also objects to the Neikirk Reply Declaration because it does not introduce evidence of Dr. Neikirk's personal knowledge of the subject matter of the testimony contained therein, rendering such testimony inadmissible under **FRE 602**.

3. Patent Owner also objects to the Neikirk Reply Declaration because the Neikirk Reply Declaration is hearsay under **FRE 801**, does not fall within a hearsay exception under **FRE 802** or **FRE 803**, and lacks authentication.
4. Patent Owner also objects to the Neikirk Reply Declaration as not relevant under **FRE 401** and **FRE 402** because it exceeds the proper scope of Petitioner's Reply. *See* 37 C.F.R. § 42.23(b).
5. Patent Owner further objects to Neikirk Reply Declaration under **FRE 403** because of the prejudice arising from Patent Owner's inability to respond to the untimely evidence and arguments relied thereupon.
6. Dr. Neikirk's opinions are not relevant under **FRE 401** and are inadmissible under **FRE 402**. Moreover, Dr. Neikirk's opinions are confusing, of minimal probative value, outweighed by prejudice, and/or a waste of time and therefore inadmissible under **FRE 403**.

## **II. U.S. Patent No. 4,841,348 to Shizukuishi *et al.* (Ex. 1089)**

Patent Owner objects to the admissibility of the U.S. Patent No. 4,841,348 ("Shizukuishi," Ex. 1089) for at least the following reasons:

1. To the extent that Petitioner relies on Shizukuishi as an additional invalidity ground, Patent Owner objects to its admissibility because Petitioner should have presented Shizukuishi earlier in its Petition.

2. To the extent that Petitioner relies on Shizukuishi to reiterate the state of the art of CMOS image sensors (Paper 21 at 18–19), Patent Owner also objects to the Shizukuishi as not relevant under **FRE 401** and **FRE 402** because it fails the first prong of the relevance test. Patent Owner already discusses the emergence of CMOS image sensors in Section II of its Response. Paper 18 at 2–12.
3. Patent Owner further objects to Shizukuishi under **FRE 403** because Shizukuishi is cumulative of evidence already in the record.

**III. D. Renshaw *et al.*'s ASIC Image Sensors and Accompanying Grenier Declaration (“Renshaw,” Ex. 1090)**

Patent Owner objects to the admissibility of D. Renshaw *et al.*'s *ASIC Image Sensors* (“Renshaw,” Ex. 1090) for at least the following reasons:

1. To the extent that Petitioner relies on Renshaw as an additional invalidity ground, Patent Owner objects to its admissibility because Petitioner should have presented Renshaw earlier in its Petition.
2. To the extent that Petitioner relies on Renshaw to reiterate the state of the art of CMOS image sensors (Paper 21 at 18–19), Patent Owner also objects to the Renshaw as not relevant under **FRE 401** and **FRE 402** because it fails the first prong of the relevance test. Patent Owner

already discusses the emergence of CMOS image sensors in Section II of the Patent Owner Response. Paper 18 at 2–12.

3. Patent Owner further objects to Renshaw under **FRE 403** because Renshaw is cumulative of evidence already in the record.

#### IV. Conclusion

Therefore, Patent Owner reserves its right to file motions to exclude evidence and exhibits under 37 C.F.R. § 42.64(c).

Respectfully submitted,

Dated: February 8, 2021

/Jonathan S. Caplan/

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(Case No. IPR2020-00512) *Attorneys for Patent Owner*

## **CERTIFICATE OF SERVICE**

The undersigned certifies, in accordance with 37 C.F.R. § 42.6(e), that service was made on the Petitioner as detailed below.

<i>Date of Service</i>	February 8, 2021
<i>Manner of Service</i>	Electronic Mail (scott.mckeown@ropesgray.com, james.l.davis@ropesgray.com, carolyn.redding@ropesgray.com, samsung-cellect-ipr@ropesgray.com,)
<i>Documents Served</i>	PATENT OWNER'S OBJECTIONS TO EVIDENCE
<i>Persons Served</i>	Scott A. McKeown James L. Davis, Jr. Carolyn Redding

/Jonathan S. Caplan/  
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