

Filed: December 10, 2020

Filed on behalf of:

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SOTERA WIRELESS,
Petitioner,

v.

MASIMO CORPORATION,
Patent Owner.

Case IPR2020-00954
U.S. Patent 9,788,735

PATENT OWNER'S OBJECTIONS TO EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b), Patent Owner Masimo Corporation timely objects to the admissibility of evidence submitted by Petitioner Sotera Wireless. Patent Owner reserves its rights to: (1) timely file a motion to exclude these objectionable exhibits or portions thereof; (2) challenge the credibility and/or weight that should be afforded to these exhibits, whether or not Patent Owner files a motion to exclude the exhibits; (3) challenge the sufficiency of the evidence to meet Petitioner's burden of proof on any issue, including, without limitation, whether Petitioner met its burden to prove the prior art status of the alleged prior art on which it relies, whether or not Patent Owner has objected to, or files a motion to exclude, the evidence; and (4) cross examine any Petitioner declarant within the scope of his or her direct testimony that is or relates to these exhibits, without regard to whether Patent Owner has objected to the testimony or related exhibits or whether the testimony or related exhibits are ultimately found to be inadmissible.

Evidence	Objections
EX1003 – Declaration of Dr. George E. Yanulis	Irrelevant (FRE 401, 402), Misleading, Tending to Confuse the Issues (FRE 403) ¶ 21 is irrelevant (FRE 401, 402), is misleading, and tends to confuse the issues (FRE 403) because it discusses references that do not form the basis of any asserted ground. ¶¶ 22-24 are irrelevant to any issue in this proceeding (FRE 401, 402) and are misleading, tend to confuse the issues, and

	<p>improperly mischaracterize the '735 Patent and its prosecution history (FRE 403).</p> <p>¶¶ 34-36 are irrelevant to any issue in this proceeding (FRE 401, 402)</p> <p>¶¶ 37-39 are misleading, tend to confuse the issues, and improperly mischaracterize the asserted reference and the '735 Patent (FRE 403).</p> <p>¶¶ 40-41 are misleading, tend to confuse the issues, and improperly mischaracterize the asserted references and the '735 Patent (FRE 403).</p> <p>¶ 43 is misleading, tend to confuse the issues, and improperly mischaracterize the asserted references and the '735 Patent (FRE 403).</p> <p>¶ 71 is irrelevant to any issue in this proceeding (FRE 401, 402) and is misleading, tends to confuse the issues, and improperly mischaracterizes the asserted reference and the '735 Patent (FRE 403).</p> <p>¶ 76 is misleading and improperly mischaracterizes the asserted reference (FRE 403).</p> <p>¶ 78 is misleading and improperly mischaracterizes the asserted reference (FRE 403).</p> <p>¶ 80 is irrelevant to any issue in this proceeding (FRE 401, 402) and is misleading, tends to confuse the issues, and improperly mischaracterizes the asserted reference (FRE 403).</p> <p>¶¶ 83-84 are misleading, tend to confuse the issues, and improperly mischaracterize the asserted reference (FRE 403).</p>
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	<p>¶ 90 is irrelevant to any issue in this proceeding (FRE 401, 402) and is misleading, tends to confuse the issues, and improperly mischaracterizes the '735 Patent (FRE 403).</p> <p>¶ 120 is irrelevant to any issue in this proceeding (FRE 401, 402) and is misleading, tends to confuse the issues, and improperly mischaracterizes the asserted reference and the '735 Patent (FRE 403).</p> <p>¶ 137 is misleading and improperly mischaracterizes the asserted reference (FRE 403).</p> <p>¶ 144 is irrelevant to any issue in this proceeding (FRE 401, 402) and is misleading, tends to confuse the issues, and improperly mischaracterizes the asserted reference and the '735 Patent (FRE 403).</p> <p>¶ 163 is irrelevant to any issue in this proceeding (FRE 401, 402) and is misleading, tends to confuse the issues, and improperly mischaracterizes the asserted reference and the '735 Patent (FRE 403).</p> <p>¶ 199 is irrelevant to any issue in this proceeding (FRE 401, 402) and is misleading, tends to confuse the issues, and improperly mischaracterizes the asserted reference (FRE 403).</p> <p>¶ 215 is irrelevant to any issue in this proceeding (FRE 401, 402) and is misleading, tends to confuse the issues, and improperly mischaracterizes the '735 Patent (FRE 403).</p> <p>¶ 220 is irrelevant to any issue in this proceeding (FRE 401, 402) and is misleading, tends to confuse the issues, and improperly mischaracterizes the asserted reference (FRE 403).</p>
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	<p>¶ 221 is misleading, tends to confuse the issues, and improperly mischaracterizes the asserted reference (FRE 403).</p> <p>¶ 230 is irrelevant to any issue in this proceeding (FRE 401, 402) and is misleading, tends to confuse the issues, and improperly mischaracterizes the '735 Patent (FRE 403).</p> <p>¶ 237 is irrelevant to any issue in this proceeding (FRE 401, 402) and is misleading, tends to confuse the issues, and improperly mischaracterizes the asserted reference (FRE 403).</p> <p>¶ 239 is irrelevant to any issue in this proceeding (FRE 401, 402) and is misleading, tends to confuse the issues, and improperly mischaracterizes the '735 Patent (FRE 403).</p> <p>Improper Testimony by Expert Witness (FRE 702):</p> <p>Masimo objects to Dr. Yanulis's reliance on unsupported assertions regarding the knowledge of a skilled artisan; the scope and content of the art and his interpretation thereof; and the ultimate issues of obviousness as unhelpful to the trier of fact to understand the evidence or to determine a fact in issue due to his lack of experience in the relevant field. Further, to the extent Dr. Yanulis's declaration incorporates prior objectionable paragraphs, Masimo's objections apply with equal force to those same paragraphs as later incorporated.</p> <p>¶¶ 27-32 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p> <p>¶¶ 34-36 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p>
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	<p>¶ 54 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p> <p>¶ 58 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p> <p>¶¶ 63-67 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p> <p>¶ 68 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p> <p>¶ 69 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p> <p>¶¶ 70-73 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p> <p>¶¶ 74-75 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p> <p>¶¶ 76-81 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p> <p>¶¶ 84-86 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p> <p>¶¶ 96-99 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p> <p>¶ 101 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p> <p>¶ 102 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p>
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	<p>¶¶ 104-106 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p> <p>¶ 120 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p> <p>¶ 133 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p> <p>¶¶ 138-140 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p> <p>¶¶ 144-145 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p> <p>¶ 149 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p> <p>¶¶ 152-154 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p> <p>¶ 164 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p> <p>¶ 186 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p> <p>¶ 190 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p> <p>¶¶ 193-196 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p> <p>¶¶ 197-199 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p>
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	<p>¶ 202 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p> <p>¶¶ 205-207 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p> <p>¶¶ 208-209 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p> <p>¶ 215 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p> <p>¶ 218 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p> <p>¶ 220 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p> <p>¶¶ 222-226 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p> <p>¶ 230 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p> <p>¶¶ 236-237 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p> <p>¶ 240 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p> <p>¶¶ 243-245 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p> <p>¶ 247 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p>
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	<p>¶ 259 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p> <p>¶¶ 280-282 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p> <p>¶ 294 is not based on sufficient facts and data, and does not reliably apply facts and data using scientific principles.</p> <p>¶¶ 313-316 are not based on sufficient facts and data, and do not reliably apply facts and data using scientific principles.</p> <p>With respect to any paragraph in EX1003 that incorporates or references other paragraphs within EX1003, Patent Owner incorporates by reference its objections to the incorporated or referenced paragraphs.</p>
EX1017 – International Publication No. WO 00/44274	<p>Relevance (FRE 401, 402) This reference is not relevant to any issue in this proceeding (e.g., it does not form the basis of any ground challenging any claim of the '735 Patent and is not cited by Petitioner for any argument with respect to any ground).</p> <p>Confusing the issues, wasting the Board's time (FRE 403) This reference tends to confuse the issues and wastes the Board's time because Petitioner does not cite to this reference for any argument with respect to any ground.</p>
EX1018 – Japanese Publication JP0558122A, with English Machine Translation	<p>Relevance (FRE 401, 402) This reference is not relevant to any issue in this proceeding (e.g., it does not form the basis of any ground challenging any claim of the '735 Patent and is not cited by Petitioner for any argument with respect to any ground).</p>

	<p>Confusing the issues, wasting the Board's time (FRE 403) This reference tends to confuse the issues and wastes the Board's time because Petitioner does not cite to this reference for any argument with respect to any ground.</p>
EX1019 – U.S. Pat. No. 4,338,950	<p>Relevance (FRE 401, 402) This reference is not relevant to any issue in this proceeding (e.g., it does not form the basis of any ground challenging any claim of the '735 Patent and is not cited by Petitioner for any argument with respect to any ground).</p> <p>Confusing the issues, wasting the Board's time (FRE 403) This reference tends to confuse the issues and wastes the Board's time because Petitioner does not cite to this reference for any argument with respect to any ground.</p>
EX1020 – U.S. Pat. No. 4,450,843	<p>Relevance (FRE 401, 402) This reference is not relevant to any issue in this proceeding (e.g., it does not form the basis of any ground challenging any claim of the '735 Patent and is not cited by Petitioner for any argument with respect to any ground).</p> <p>Confusing the issues, wasting the Board's time (FRE 403) This reference tends to confuse the issues and wastes the Board's time because Petitioner does not cite to this reference for any argument with respect to any ground.</p>
EX1021 – U.S. Pat. No. 4,807,639	<p>Relevance (FRE 401, 402) This reference is not relevant to any issue in this proceeding (e.g., it does not form the basis of any ground challenging any claim of the '735 Patent and is not cited by Petitioner for any argument with respect to any ground).</p> <p>Confusing the issues, wasting the Board's time (FRE 403) This reference tends to confuse the issues and wastes the Board's time because Petitioner does not cite to this reference for any argument with respect to any ground.</p>

<p>EX1022 – U.S. Pat. No. 5,539,706</p>	<p>Relevance (FRE 401, 402) This reference is not relevant to any issue in this proceeding (e.g., it does not form the basis of any ground challenging any claim of the '735 Patent and is not cited by Petitioner for any argument with respect to any ground).</p> <p>Confusing the issues, wasting the Board's time (FRE 403) This reference tends to confuse the issues and wastes the Board's time because Petitioner does not cite to this reference for any argument with respect to any ground.</p>
<p>EX1023 – U.S. Pat. No. 6,850,788</p>	<p>Relevance (FRE 401, 402) This reference is not relevant to any issue in this proceeding (e.g., it does not form the basis of any ground challenging any claim of the '735 Patent and is not cited by Petitioner for any argument with respect to any ground).</p> <p>Confusing the issues, wasting the Board's time (FRE 403) This reference tends to confuse the issues and wastes the Board's time because Petitioner does not cite to this reference for any argument with respect to any ground.</p>
<p>EX1024 – U.S. Pat. No. 7,844,314</p>	<p>Relevance (FRE 401, 402) This reference is not relevant to any issue in this proceeding (e.g., it does not form the basis of any ground challenging any claim of the '735 Patent and is not cited by Petitioner for any argument with respect to any ground).</p> <p>Confusing the issues, wasting the Board's time (FRE 403) This reference tends to confuse the issues and wastes the Board's time because Petitioner does not cite to this reference for any argument with respect to any ground.</p>
<p>EX1025 – U.S. Pat. No. 7,844,315</p>	<p>Relevance (FRE 401, 402) This reference is not relevant to any issue in this proceeding (e.g., it does not form the basis of any ground challenging any claim of the '735 Patent and is not cited by Petitioner for any</p>

	<p>argument with respect to any ground).</p> <p>Confusing the issues, wasting the Board's time (FRE 403) This reference tends to confuse the issues and wastes the Board's time because Petitioner does not cite to this reference for any argument with respect to any ground.</p>
EX1026 – U.S. Pat. No. 8,548,548	<p>Relevance (FRE 401, 402) This reference is not relevant to any issue in this proceeding (e.g., it does not form the basis of any ground challenging any claim of the '735 Patent and is not cited by Petitioner for any argument with respect to any ground).</p> <p>Confusing the issues, wasting the Board's time (FRE 403) This reference tends to confuse the issues and wastes the Board's time because Petitioner does not cite to this reference for any argument with respect to any ground.</p>
EX1027 – U.S. Pat. No. 9,113,831	<p>Relevance (FRE 401, 402) This reference is not relevant to any issue in this proceeding (e.g., it does not form the basis of any ground challenging any claim of the '735 Patent and is not cited by Petitioner for any argument with respect to any ground).</p> <p>Confusing the issues, wasting the Board's time (FRE 403) This reference tends to confuse the issues and wastes the Board's time because Petitioner does not cite to this reference for any argument with respect to any ground.</p>
EX1028 – U.S. Pat. No. 9,113,832	<p>Relevance (FRE 401, 402) This reference is not relevant to any issue in this proceeding (e.g., it does not form the basis of any ground challenging any claim of the '735 Patent and is not cited by Petitioner for any argument with respect to any ground).</p>

	Confusing the issues, wasting the Board's time (FRE 403) This reference tends to confuse the issues and wastes the Board's time because Petitioner does not cite to this reference for any argument with respect to any ground.
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Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: December 10, 2020

/Sheila N. Swaroop/

Sheila N. Swaroop (Reg. No. 53,658)

Customer No. 64,735

Attorneys for Patent Owner

Masimo Corporation

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to 37 C.F.R. § 42.6(e) and with the agreement of counsel for Petitioner, a true and correct copy of **PATENT OWNER'S OBJECTIONS TO EVIDENCE** is being served electronically on December 10, 2020, to the e-mail addresses shown below:

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Dated: December 10, 2020

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