**UNITED STATES PATENT AND TRADEMARK OFFICE**

**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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VIZIO, INC.
Petitioner,

v.

MAXELL, LTD.,
Patent Owner

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**Case: IPR2022-01459**

**U.S. Patent No. 7,730,507**

# PATENT OWNER'S OBJECTIONS TO EVIDENCE UNDER 37 C.F.R. § 42.64(B)(1)

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

# I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.64(b)(1) and the Federal Rules of Evidence ("F.R.E."), the undersigned counsel, on behalf of Patent Owner, hereby serves and submits the following objections to evidence submitted by Petitioner accompanying Petitioner's Petition for *Inter Partes* Review. These objections are timely because they are filed within ten days of institution of trial.

# II. OBJECTIONS

## A. Exhibits 1006, 1007, 1009, 1013-1023

Patent Owner objects to Exhibits 1006, 1007, 1009, 1013-1023, and any reference to or reliance on these exhibits, on the following grounds:

**37 C.F.R. § 42.61 (Admissibility of evidence):** These exhibits are not admissible under any applicable rule of the Patent Trial and Appeal Board.

**F.R.E. 401/402 (Relevance):** These exhibits are not relevant to any ground upon which trial was instituted. For example, these exhibits have no bearing on whether the challenged claims are patentable under 35 U.S.C. §§ 102 and 103, the grounds of institution in this proceeding.

**F.R.E. 403 (Excluding evidence for prejudice, confusion, waste of time, or for other reasons):** These exhibits include information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger

of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.

**F.R.E. 801/802/805 (Hearsay):** Exhibits 1006, 1007, 1009, and 1013-1023 include inadmissible hearsay and/or double hearsay with no applicable exceptions.

**B. Ex. 1003 (Wolfe Declaration)**

Patent Owner objects to Exhibit 1003, and any reference to or reliance on this exhibit, on the following grounds:

**37 C.F.R. § 42.61 (Admissibility of evidence):** This exhibit is not admissible under any applicable rule of the Patent Trial and Appeal Board.

**37 C.F.R. § 42.65 (Expert Testimony):** This exhibit includes expert testimony that does not disclose the underlying facts or data on which the opinion is based.

**F.R.E. 401/402 (Relevance):** This exhibit is not relevant to any ground upon which trial was instituted. For example, this exhibit includes discussion of various documents (Exs. 1006, 1007, 1009, 1013-1023), which have no bearing on whether the challenged claims are patentable under 35 U.S.C. § 103, the grounds of institution in this proceeding (*e.g.*, ¶¶ 67, 69, 70, 72, 74, 75, 81, 82, 84, 86, 87, 125, 127, 128, 131, 160, 188, 197, 198 n.12, 220, 229, 230, 231, 234, 240, 241, 245, 268, 269, 272, 302, 331).

**F.R.E. 403 (Excluding evidence for prejudice, confusion, waste of time, or for other reasons):** This exhibit includes information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence (*e.g.*, ¶¶ 67, 69, 70, 72, 74, 75, 81, 82, 84, 86, 87, 125, 127, 128, 131, 160, 188, 197, 198 n.12, 220, 229, 230, 231, 234, 240, 241, 245, 268, 269, 272, 302, 331).

**F.R.E. 602 (Need for Personal Knowledge):** This exhibit includes statements and testimony made without any personal knowledge, including and not limited to, industry practices and trends (*e.g.*, ¶¶ 67, 69, 70, 72, 74, 75, 81, 82, 84, 86, 87, 125, 127, 128, 131, 160, 188, 197, 198 n.12, 220, 229, 230, 231, 234, 240, 241, 245, 268, 269, 272, 302, 331).

**F.R.E. 702/703 (Expert testimony):** This exhibit includes statements and testimony on topics, including and not limited to, the state of the art at the time of the ’507 Patent (*e.g.*, ¶¶ 67, 69, 70, 72, 74, 75, 81, 82, 84, 86, 87, 125, 127, 128, 131, 160, 188, 197, 198 n.12, 220, 229, 230, 231, 234, 240, 241, 245, 268, 269, 272, 302, 331). These statements and testimony are based on insufficient facts or data, and are not the product of reliable principles and methods. Further, the relied upon facts and data are not those on which experts in this field would reasonably rely.

**F.R.E. 801/802/805 (Hearsay):** This exhibit includes inadmissible hearsay and/or double hearsay with no applicable exceptions.

## III. CONCLUSION

For at least the foregoing reasons, Patent Owner objects to Exhibits 1006, 1007, 1009, and 1013-1023.

Dated: April 25, 2023

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of April, 2023, a copy of the attached **PATENT OWNER'S OBJECTIONS UNDER 37 C.F.R. § 42.64(b)(1)** was served by electronic mail to the attorneys of record, at the following addresses:

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