

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

K/S HIMPP,
Petitioner,

v.

III HOLDINGS 4, LLC,
Patent Owner.

Case No. IPR2017-00783
Patent 9,191,756

**PATENT OWNER OBJECTIONS TO PETITIONER EVIDENCE
PURSUANT TO 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

Patent Owner, III Holdings 4, LLC, objects to the admissibility of the following evidence submitted by Petitioner K/S HIMPP pursuant to 37 C.F.R. § 42.64(b)(1). These objections are being timely filed within 10 business days after the Decision to Institute. Patent Owner asks the Patent Trial and Appeal Board to deny the admission and consideration of the following documents on the following bases:

Exhibit 1012 – Barron’s Dictionary of Computer and Internet Terms (11th ed. 2013)

Patent Owner objects to the admission of Exhibit 1012 as irrelevant to this proceeding because Petitioner has not established that Exhibit 1012 was publicly available before the earliest possible priority date of the '756 patent. Petitioner has not established that Exhibit 1012 is a prior art printed publication eligible for this IPR proceeding or consideration by the identified Expert Dr. Robert Morrow, rendering the Exhibit 1012 reference irrelevant to this IPR proceeding pursuant to FRE 401 and inadmissible under FRE 402.

To the extent Petitioner relies on the contents of this document for the truth of the matter asserted, Patent Owner objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

Exhibit 1013 – I. Sager, *Before Iphone and Android Came Simon, the First Smartphone* (June 29, 2012), <https://www.bloomberg.com/news/articles/2012-06-29/before-iphone-and-android-came-simon-the-first-smartphone>

Patent Owner objects to the admission of Exhibit 1013 as irrelevant to this proceeding because Petitioner has not established that Exhibit 1013 was publicly available before the earliest possible priority date of the '756 patent. Petitioner has not established that Exhibit 1013 is a prior art printed publication eligible for this IPR proceeding, rendering the Exhibit 1013 reference irrelevant to this IPR proceeding pursuant to FRE 401 and inadmissible under FRE 402.

To the extent Petitioner relies on the contents of this document for the truth of the matter asserted, Patent Owner objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

Patent Owner objects to this document as not properly authenticated under FRE 901 because Petitioners have not presented any evidence that the document is authentic or that the document is self-authenticating under FRE 902.

Exhibit 1014 – T. Martin, *The evolution of the smartphone* (July 29, 2014), <http://pocketnow.com/2014/07/28/the-evolution-of-the-smartphone>

Patent Owner objects to the admission of Exhibit 1014 as irrelevant to this proceeding because Petitioner has not established that Exhibit 1014 was publicly

available before the earliest possible priority date of the '756 patent. Petitioner has not established that Exhibit 1014 is a prior art printed publication eligible for this IPR proceeding, rendering the Exhibit 1014 reference irrelevant to this IPR proceeding pursuant to FRE 401 and inadmissible under FRE 402.

To the extent Petitioner relies on the contents of this document for the truth of the matter asserted, Patent Owner objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

Patent Owner objects to this document as not properly authenticated under FRE 901 because Petitioners have not presented any evidence that the document is authentic or that the document is self-authenticating under FRE 902.

Exhibit 1015 – S. Mukherjee, *Smartphone Evolution: From IBM Simon to Samsung Galaxy S3* (May 8, 2012), <http://www.ibtimes.com/smartphone-evolution-ibm-simon-samsung-galaxy-s3-697340>

Patent Owner objects to the admission of Exhibit 1015 as irrelevant to this proceeding because Petitioner has not established that Exhibit 1015 was publicly available before the earliest possible priority date of the '756 patent. Petitioner has not established that Exhibit 1015 is a prior art printed publication eligible for this IPR proceeding, rendering the Exhibit 1015 reference irrelevant to this IPR proceeding pursuant to FRE 401 and inadmissible under FRE 402.

To the extent Petitioner relies on the contents of this document for the truth of the matter asserted, Patent Owner objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

Patent Owner objects to this document as not properly authenticated under FRE 901 because Petitioners have not presented any evidence that the document is authentic or that the document is self-authenticating under FRE 902.

Exhibit 1016 – B. Kasoff, *A Closer Look: The Evolution of the Smart Phone* (September 19, 2014), <http://blog.wipp.org/2014/09/a-closer-look-the-evolution-of>

Patent Owner objects to the admission of Exhibit 1016 as irrelevant to this proceeding because Petitioner has not established that Exhibit 1016 was publicly available before the earliest possible priority date of the '756 patent. Petitioner has not established that Exhibit 1016 is a prior art printed publication eligible for this IPR proceeding, rendering the Exhibit 1016 reference irrelevant to this IPR proceeding pursuant to FRE 401 and inadmissible under FRE 402.

To the extent Petitioner relies on the contents of this document for the truth of the matter asserted, Patent Owner objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

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