

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.,

Petitioner

v.

PARUS HOLDINGS, INC.,

Patent Owner

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Case No. IPR2020-00686

U.S. Patent No. 7,076,431

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**PETITIONER APPLE INC.'S OBJECTIONS TO EVIDENCE PURSUANT  
TO 37 C.F.R. § 42.64(b)(1)**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner Apple Inc. (“Petitioner”) submits the following objections to evidence that Parus Holdings, Inc. (“Patent Owner”) served in its Patent Owner Sur-Reply (Paper 21). These objections are timely filed and served within five business days of Patent Owner’s May 5, 2021, Patent Owner Sur-Reply.

Evidence	Objections
<p><b>Exhibit 2026</b> (Dragon Naturally Speaking v.12 User Guide)</p>	<p><b>FRE 401, 402, and 403:</b> Petitioner objects to this evidence on the grounds that it is irrelevant and its probative value is substantially outweighed by a danger of unfair prejudice, confusing the issues, and wasting time.</p> <p><b>FRE 901 and 902:</b> Petitioner objects to this evidence on the grounds that it is lacking authentication under Federal Rules of Evidence (“FRE”) 901 because sufficient evidence has not been provided to establish their authenticity or dates prior to the critical date of the ’431 Patent. Patent Owner has not submitted evidence to authenticate these exhibits or to otherwise establish that they are what Patent Owner claims them to be.</p> <p><b>37 C.F.R. § 42.123(b):</b> Petitioner objects to this evidence on the grounds that the evidence is a late submission of supplemental information filed without authorization. <i>See Mallinckrodt Pharmaceuticals Ireland Limited v. Biovie, Inc.</i>, IPR2018-00974, Paper 34 at 7–10.</p>

<p><b>Exhibit 2027</b> (Declaration of Benedict Occhiogrosso in Support of Patent Owner’s Sur-Reply to Petitioner’s Reply to Patent Owner’s Response)</p>	<p><b>FRE 401, 402, and 403:</b> Petitioner objects to this evidence on the grounds that it is irrelevant and its probative value is substantially outweighed by a danger of unfair prejudice, confusing the issues, and wasting time.</p> <p><b>37 C.F.R. § 42.123(b):</b> Petitioner objects to this evidence on the grounds that the evidence is a late submission of supplemental information filed without authorization. <i>See Mallinckrodt Pharmaceuticals Ireland Limited v. Biovie, Inc.</i>, IPR2018-00974, Paper 34 at 7–10.</p>
<p><b>Paper 21</b>, specifically portions of Paper 21 that rely on Exs. 2026 and 2027 (e.g., Section II.C.1)</p>	<p><b>37 C.F.R. § 42.123(b):</b> Petitioner objects to this evidence on the grounds that the evidence is a late submission of supplemental information filed without authorization. <i>See Mallinckrodt Pharmaceuticals Ireland Limited v. Biovie, Inc.</i>, IPR2018-00974, Paper 34 at 7–10.</p>

Petitioner objects to Exhibits 2026 and 2027 and the related portions of Patent Owner’s Sur-Reply. These exhibits constitute late submissions of supplemental information under 37 C.F.R. § 42.123(b). Per the November 2019 Trial Practice Guide, “The sur-reply may not be accompanied by new evidence other than deposition transcripts of the cross-examination of any reply witness.” This Board has previously expunged late-filed exhibits and stricken the related portions of the Patent Owner’s Sur-Reply in this same scenario. *See Mallinckrodt Pharmaceuticals Ireland Limited v. Biovie, Inc.*, IPR2018-00974, Paper 34 at 7–10 (striking portions

of the Sur-Reply related to a late-filed exhibit); *Lenovo Holding Company, Inc. v. Dodots Licensing Solutions LLC*, IPR2019-01279, Paper 37 at 34–34 (striking a Supplemental Declaration filed with a Sur-Reply). This is consistent with the Board’s obligation to “secure the just, speedy, and inexpensive resolution of every proceeding,” as allowing a declaration in a sur-reply “would require the opportunity for cross-examination and potentially further substantive briefing from Petitioner....” *Taiwan Semiconductor Manufacturing Company, LTD. v. Godo Kaisha IP Bridge 1*, IPR2016-01246, Paper 28 at 3.

Respectfully submitted,

ERISE IP, P.A.

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ATTORNEYS FOR PETITIONER  
APPLE INC.

**CERTIFICATE OF SERVICE ON PATENT OWNER**  
**UNDER 37 C.F.R. § 42.6**

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on May 7, 2021 the foregoing *Petitioner Apple Inc. 's Objections to Evidence Pursuant to 37 C.F.R. § 42.64(b)(1)* was served via electronic filing with the Board and via Electronic Mail on the following practitioners of record for Patent Owner:

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