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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.

Petitioner,

v.

MASIMO CORPORATION,

Patent Owner.

IPR2021-00208
Patent 10,258,266

MASIMO OBJECTIONS TO ADMISSIBILITY OF APPLE EVIDENCE SUBMITTED BEFORE TRIAL INSTITUTION

Pursuant to 37 C.F.R. § 42.64(b), Patent Owner Masimo Corporation objects as follows to the admissibility of evidence served with the initial Petition. Patent Owner reserves the right 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 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.

Exhibit Number and Description	Objections
Exhibit 1003 - Declaration of Dr. Kenny	Masimo's objections to Ex. 1003 are set forth below. To the extent Dr. Kenny's declaration incorporates objectionable material in the cited paragraphs below in additional paragraphs or sections, Masimo's objections apply with equal force to those additional paragraphs or sections. **Incomplete, Irrelevant, Misleading (FRE 106, 401, 403):** ¶¶21-22 are misleading, incomplete, and irrelevant because they lack support for the contentions for which

Exhibit Number and Description	Objections
	they are cited and they mischaracterize the teachings of Ex. 1001. ¶41 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and mischaracterizes the teachings of Ex. 1001. ¶42 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and mischaracterizes the teachings of Ex. 1019. ¶50 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and mischaracterizes the teachings of Ex. 1001. ¶52 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and mischaracterizes the teachings of Exs. 1001, 1006. ¶53 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and mischaracterizes the teachings of Ex. 1006. ¶¶54-57 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Ex. 1006. ¶¶58-59 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Ex. 1008. ¶60 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited

Exhibit Number and Description	Objections
	and mischaracterizes the teachings of Exs. 1001, 1008. ¶¶61-62 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Ex. 1008. ¶¶63-64 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Exs. 1006, 1008, 1014. ¶¶65-67 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of Exs. 1015, 1024, 1025. ¶68 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and mischaracterizes the teachings of Ex. 1006. ¶70 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and mischaracterizes the teachings of Ex. 1008. ¶71 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and mischaracterizes the teachings of Exs. 1006, 1008. ¶72 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and mischaracterizes the teachings of Exs. 1006, 1008, 1010. ¶73 is misleading, incomplete, and irrelevant because it

Exhibit Number and Description	Objections
	lacks support for the contentions for which it is cited and mischaracterizes the teachings of Exs. 1006, 1008.

¶76 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and mischaracterizes the teachings of Exs. 1006, 1008.

¶77 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and mischaracterizes the teachings of Ex. 1008.

¶78 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and mischaracterizes the teachings of Ex. 1008.

¶80 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and mischaracterizes the teachings of Ex. 1015.

¶81 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and mischaracterizes the teachings of Ex. 1008.

¶82 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and mischaracterizes the teachings of Ex. 1006.

¶84 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and mischaracterizes the teachings of Ex. 1006.

¶¶85-93 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and they mischaracterize the teachings of |

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