

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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SAMSUNG ELECTRONICS CO. LTD. and SAMSUNG ELECTRONICS  
AMERICA, INC.,  
Petitioners,

v.

MOBILE DATA TECHNOLOGIES LLC,  
Patent Owner

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IPR2025-00540  
U.S. Patent No. 8,793,336

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**PETITIONERS' SUR-REPLY REGARDING  
DISCRETIONARY DENIAL**

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

**TABLE OF AUTHORITIES**

*Intel Corp. v. Proxense LLC*,  
IPR2025-00327, -328, -329 .....2

*Tesla, Inc. v. Intell. Ventures II LLC*,  
IPR2025-00217, -219-222, -339.....1

**EXHIBIT LIST**

<b>Exh.</b>	<b>Reference</b>
1001	U.S. Patent 8,793,336 to Harper (“the ’336 patent”)
1002	File History of U.S. Patent 8,793,336
1003	Declaration of Dr. Henry Houh in Support of Petition for <i>Inter Partes</i> Review of U.S. Patent 8,793,336
1004	Curriculum Vitae of Dr. Henry Houh
1005	WO 02/17652 to Randall, et al. (“Randall”)
1006	U.S. Patent 7,047,030 to Forsyth (“Forsyth”)
1007	U.S. Patent 7,056,217 to Pelkey, et al. (“Pelkey”)
1008	U.S. Patent 6,716,103 to Eck, et al. (“Eck”)
1009	Joint Claim Construction Statement from <i>Mobile Data Techs. LLC v. Meta Platforms, Inc.</i> , No. 7:22-cv-00244-ADA-DTG (E.D. Tex.)
1010	Patent Owner’s Response to Petition (Paper 27) from <i>Mobile Data Techs. LLC v. Meta Platforms, Inc.</i> , IPR2024-00246
1011	Petitioner’s Reply (Paper 34) from <i>Mobile Data Techs. LLC v. Meta Platforms, Inc.</i> , IPR2024-00246
1012	“Wireless Java for Symbian Devices” by Allin (September 2001) (“Allin”)
1013	WAP Architecture (Version 12): “Wireless Application Protocol Architecture Specification, WAP-210-WAPArch-20010712” (July 12, 2001) (“WAP Architecture”)
1014	Wireless Datagram Protocol (Version 14): “Open Mobile Alliance, WAP-259-WDP-20010614-a” (June 14, 2001) (“WDP”)
1015	ETSI TS 123 040—Digital cellular telecommunications system (Phase 2+) (GSM); Universal Mobile Telecommunications System (UMTS);

Exh.	Reference
	Technical realization of the Short Message Service (SMS) (3GPP TS 23.040 version 3.6.0) (September 2001) (“GSM SMS Standard”)
1016	“Symbian OS Communications Programming” by Michael J. Jipping (June 2002) (“Jipping”)
1017	“Symbian Home Page,” (January 24, 2002), <a href="https://web.archive.org/web/20020124070457/http://www.symbian.com:80/">https://web.archive.org/web/20020124070457/http://www.symbian.com:80/</a>
1018	“Symbian: OS Technology,” (February 2, 2002), <a href="https://web.archive.org/web/20020202090443/http://www.symbian.com/technology/technology.html">https://web.archive.org/web/20020202090443/http://www.symbian.com/technology/technology.html</a>
1019	“Symbian: OS Technology – Symbian OS phones and PDAs,” (February 2, 2002) <a href="https://web.archive.org/web/20020202133445/http://www.symbian.com/technology/symbos-phones.html">https://web.archive.org/web/20020202133445/http://www.symbian.com/technology/symbos-phones.html</a>
1020	U.S. Patent 6,947,396 to Salmi (“Salmi”)
1021	RESERVED
1022	RESERVED
1023	U.S. Patent 6,788,949 to Bansal (“Bansal”)
1024	U.S. Patent 7,802,207 to Agboatwalla, et al. (“Agboatwalla”)
1025	U.S. Patent 7,574,486 to Cheng, et al. (“Cheng”)
1026	“Operating System Concepts” (Fourth Edition) by Silberschatz et al. (January 1994) (“Silberschatz”)
1027	U.S. Patent 6,937,588 to Park (“Park”)
1028	Excerpt from Webster’s Dictionary of Computer Terms (page 98)
1029	RESERVED

Exh.	Reference
1030	RESERVED
1031	RESERVED
1032	File History of <i>Ex Parte</i> Reexamination of U.S. Patent 8,793,336
1033	RESERVED
1034	H.R. Rep. No. 112-98 (2011)
1035	Delaware Department of State, Division of Corporations, Entity Page for Mobile Data Technologies LLC, <a href="https://icis.corp.delaware.gov/ecorp/entitysearch/NameSearch.aspx">https://icis.corp.delaware.gov/ecorp/entitysearch/NameSearch.aspx</a>
1036	First Am. Compl., <i>Mobile Data Techs. LLC v. Samsung Elecs. Am., Inc.</i> , No. 2:24-cv-00435-JRG-RSP, Dkt. No. 25 (E.D. Tex. Oct. 6, 2024)
1037	Patent Assignment Record for US 8,793,336 to Mobile Data Technologies LLC
1038	Patent Assignment Record for US 8,793,336 conveying Security Interest to Chisum
1039	Order Re Def.’s Mot. to Compel Litig. Funding Docs., <i>Entangled Media, LLC v. Dropbox Inc.</i> , No. 23-cv-03264-PCP (VKD), Dkt. No. 254 (N.D. Cal. Apr. 8, 2025)
1040	Order, <i>Electrolysis Prevention Sols. LLC v. Daimler Truck North Am. LLC</i> , No. 3:21-cv-00171-TEJ-WCM, Dkt. No. 147 (W.D.N.C. July 24, 2023)
1041	Complaint, <i>Mobile Data Technologies LLC v. Meta Platforms, Inc.</i> , Case No.7:22-cv-00244-ADA-DTG, Dkt. No. 1 (W.D. Tex. Nov. 23, 2022)
1042	<i>America Invents Act: Hearing on H.R. 1249 Before the Subcomm. on Intell. Prop., Competition, &amp; the Internet of the H. Comm. on the Judiciary</i> , 112th Cong. (March 30, 2011)

Exh.	Reference
1043	157 Cong. Rec. 13,159 (2011)
1044	Docket Navigator, Gilstrap Uncontested Motions to Stay Pending IPR, 2014-present, pulled May 26, 2025
1045	Pl.’s Unopposed Mot. to Stay Proceedings Pending IPR, <i>Mobile Data Technologies LLC v. Meta Platforms, Inc.</i> , Case No.3:24-cv-00896-WHA, Dkt. No. 111 (N.D. Cal. Apr. 18, 2024)
1046	Pacer, List of Calendar Events Set for Judge Gilstrap for 4/1/2026-4/30/2026, pulled June 4, 2025
1047	United States District Court – Judicial Caseload Profile 2020-March 2025
1048	Jennifer Nall, DLA Piper, <i>How Delayed Notice of Date Accorded Mailings May Affect Inter Partes Review</i> (June 3, 2025), <a href="https://www.dlapiper.com/en/insights/publications/intellectual-property-news/2025/how-delayed-notice-of-date-accorded-mailings-may-affect-inter-partes-review">https://www.dlapiper.com/en/insights/publications/intellectual-property-news/2025/how-delayed-notice-of-date-accorded-mailings-may-affect-inter-partes-review</a>
1049	Andrew T. Dufresne et al., Perkins Coie, <i>How Reliable are Trial Dates Relied on by the PTAB in the Fintiv Analysis?</i> , 1600 PTAB & Beyond (Oct. 29, 2021)
1050	Katherine K. Vidal, Under Sec’y of Com. for Intell. Prop. & Dir. of the USPTO, Mem. Re Interim Proc. for Discretionary Denials in AIA Post-Grant Procs. with Parallel Dist. Ct. Litig. (June 21, 2022), <i>rescinded</i> Feb. 28, 2025
1051	Email from N. Birbach to Counsel for PO re IPR Nos. IPR2025-00535 – IP2025-00544 – Updated Sotera Stipulation
1052	Samsung Newsroom, Samsung Members App Puts Galaxy Experts at Your Fingertips (Apr. 8, 2016), <a href="https://news.samsung.com/global/samsung-members-app-puts-galaxy-experts-at-your-fingertips">https://news.samsung.com/global/samsung-members-app-puts-galaxy-experts-at-your-fingertips</a>

<b>Exh.</b>	<b>Reference</b>
1053	Complaint, <i>Mobile Data Techs. LLC v. Samsung Elecs. Am., Inc.</i> , No. 2:24-cv-00435-JRG-RSP, Dkt. No. 1 (E.D. Tex. June 10, 2024)
1054	RESERVED
1055	Excerpts of file history of <i>Inter Partes</i> Reexamination of U.S. Patent No. 8,135,801 B2
1056	<i>Unified Patents, LLC v. MemoryWeb LLC</i> , IPR2022-00222, Exhibit 2091
1057	Unified Patents Real Party-in-Interest (RPI) Decisions (May 20, 2019), <a href="https://www.unifiedpatents.com/rpi">https://www.unifiedpatents.com/rpi</a>
1058	Unified Patents, FAQ (last visited June 25, 2025), <a href="https://www.unifiedpatents.com/faq">https://www.unifiedpatents.com/faq</a>

**TABLE OF ABBREVIATIONS**

<b>Abbreviation</b>	<b>Description</b>
PO	Patent Owner Mobile Data Technologies LLC
Op.	Petitioners' Response to Patent Owner's Discretionary Denial Brief, Paper 12
Meta-MDT-IPR	<i>Meta Platforms, Inc. v. Mobile Data Technologies LLC</i> , IPR2024-00246
POR	Patent Owner's Reply in Support of Discretionary Denial, Paper 13

There are no settled expectations counseling in favor of discretionary denial.

*First*, PO's patents and their ancestors have already been subject to instituted post-grant challenge on no fewer than ten occasions. Nine out of those ten challenges ended in unfavorable outcomes for PO. For example, in three proceedings, two ancestors to the '336 patent were found unpatentable, one based partly on the same art presented in the -539 IPR, with all three decisions summarily affirmed on appeal. (Op., 17.) The Board then instituted the Meta-MDT-IPR against the '801 patent based on the same art presented in the -539 IPR. (Op., 11.) Finally, the Board instituted Meta's IPRs against five related patents, based in part on Neibauer and Cheng. IPR2024-00247-251.

There is no reasoned basis for PO to conclude that the '336 patent's validity is, or ever has been, "settled." *See Tesla v. Intell. Ventures II*, IPR2025-00217, Paper 9, 2 (Stewart June 13, 2025). For example, the '5801 patent was found invalid and, like the challenged patent, covered method and/or systems for sharing content amongst multiple users. (EX-1055, 3-4.) Thus, PO's expectations are inherently unsettled. PO's assertion that the '336 reexam was "based on Neibauer" is false. (POR, 2.) The reexam relied on four unrelated references, and the requestor made two passing citations to Neibauer to support motivation to combine. (EX-1032, 65.) Regardless, the Examiner erred by not considering Neibauer on the merits, and one instance of surviving reexam cannot evidence

settled expectations in view of nine other instances where the Board found at least a reasonable likelihood that the claims were invalid.

**Second**, PO argues that Petitioners should have been aware of the '336 patent since May 2015 because a patent related to the '336 patent was cited during prosecution of Petitioners' design patent. (POR, 1 (incorrectly relying on *Ericsson* where the challenged patent was cited, not an ancestor).) But by May 2015, the subject patent *had already been found unpatentable* in reexam. (EX-1055, 1.) At that time, the only reasonable conclusion was that the patent posed no risk. Moreover, imposing a duty to investigate here would hold Petitioners to an impossible standard. Likely at least hundreds of thousands of patents and applications are cited on the face of Petitioners' over 145,000 issued patents. Requiring Petitioners to assess and challenge every cited patent and their family members would exact an undue burden on innovators like Samsung.

**Third**, even accepting PO's incorrect assertion that it inherited the expectations of its predecessor and that those expectations were "settled" (Op. 16-22), any such expectations do not outweigh Petitioners' settled expectations of non-infringement as articulated in *Intel*. IPR2025-00327, Paper 12, 2-3 (Stewart June 26, 2025). PO fails to address Petitioners' eight years of undisturbed commercialization of the accused technology before PO finally sued Petitioners. Thus, settled expectations weigh against discretionary denial.

U.S. Patent 8,793,336  
IPR2025-00540

Date: July 23, 2025

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned certifies that a true copy of Petitioners' Sur-Reply  
Regarding Discretionary Denial has been served on the Patent Owner via e-mail to  
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