

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

SMA SOLAR TECHNOLOGY AMERICA, LLC,
Petitioner,

v.

TIGO ENERGY, INC.,
Patent Owner.

Case: IPR2023-00879
U.S. Patent No. 9,584,021 B2

PATENT OWNER'S OBJECTIONS TO PETITIONER'S EXHIBITS

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner submits the following objections to evidence filed with the Petition. Patent Owner's objections apply equally to Petitioner's reliance on the evidence in any subsequently-filed documents. Patent Owner's objections are timely, being filed within 10 business days of institution of the trial in this proceeding. As required by 37 C.F.R § 42.62, Patent Owner's objections below apply the Federal Rules of Evidence.

I. OBJECTIONS TO EXHIBITS 1010, 1011, AND 1014

Grounds for objection: Patent Owner objects to Exhibits 1010, 1011, and 1014, on the ground that these documents have not been authenticated pursuant to Fed. R. Evid. 901-902. Exhibits 1010 and 1011 are purported data sheets and Exhibit 1014 is a purported journal article. Petitioner offers these documents as evidence in support of its arguments made based on the asserted prior art. These documents have not been authenticated under Fed. R. Evid. 901 for at least the reason that Petitioner has provided no evidence establishing how the documents were obtained, when the documents were obtained, whether the documents were published and, if so, when they were published, or whether the documents represent true and accurate copies of documents that were publicly available prior to the September 2, 2009, i.e., the priority date relied on by Petitioner for the '021 patent's claims. Further, Petitioner has failed to show that these documents are self-authenticated under Fed. R. Evid. 902.

II. OBJECTIONS TO EXHIBITS 1003 AND 1008

Grounds for objection: Patent Owner objects to Exhibits 1003 and 1008 under Fed. R. Evid. 901-902 and 1002-1005 on the basis that these exhibits have been altered and do not appear to be true and correct copies of the Balogh and Mieth references. Specifically, Exhibit 1003 is marked with yellow and blue highlighting on at least pages 4, 9, and 10, and Exhibit 1008 is marked with yellow highlighting on at least columns 2-6.

III. OBJECTIONS TO EXHIBIT 1007

Grounds for objection: Patent Owner objects to Exhibit 1007 under Fed. R. Evid. 401-403 and 702-703 because there has not been adequate showing that Dr. Holberg's testimony is the product of reliable facts or data, and there is no indication that the testimony will help the Board understand the evidence or determine a fact in issue. *See* Fed. R. Evid. 401-403, 702-703. In addition, the purported evidence that Dr. Holberg's relies upon for his opinion includes Exhibits 1003, 1010, 1011, and 1014, and that evidence is not based on reliable facts or data for at least the reasons discussed above with respect to Patent Owner's objections to Exhibits 1003, 1010, 1011, and 1014.

Dated: November 20, 2023

Respectfully submitted:

/s/ Heath J. Briggs

Heath J. Briggs (Reg. No. 54,919)

GREENBERG TRAURIG, LLP

1144 15th Street, Suite 3300

Denver, CO 80202

T: (303) 685-7418

F: (303) 572-6540

BriggsH@gtlaw.com

Attorney for Patent Owner

§ 42.6(e)—CERTIFICATION OF SERVICE

In accordance with § 42.6(e)(1), the undersigned certifies that on the 20th day of November, 2023, the above **PATENT OWNER’S OBJECTIONS TO PETITIONER’S EXHIBITS** was served, via electronic mail, upon the following counsel for Petitioner:

- Thomas G. Eschweiler – teschweiler@epiplaw.com
- Philip W. March - Philip.Marsh@arnoldporter.com
- Nathanael J. Smith – njsmith@epiplaw.com
- Ningjiao Zhang – nzhang@epiplaw.com
- James Potashnik – jpotashnik@epiplaw.com
- docketing@epiplaw.com

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BriggsH@gtlaw.com

Attorney for Patent Owner