

UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT TRIAL AND APPEAL BOARD

ADVANCED MICRO DEVICES, INC.,
Petitioner,

v.

REALTEK SEMICONDUCTOR CORPORATION,
Patent Owner.

Case IPR2023-00920
U.S. Patent No. 8,006,218

**PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE
FILED WITH PETITIONER'S REPLY**

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner hereby submits the following objections to the evidence Petitioner filed with its Reply Brief dated May 24, 2024. (Paper 26). Patent Owner's objections apply equally to Petitioner's reliance on these Exhibits in the Reply and any subsequently-filed papers in this proceeding. These objections are being filed within five business days of service.

Patent Owner objects to paragraphs 8-18 of Exhibit 1038. Exhibit 1038 is a declaration from a declarant that includes improper supplemental information in paragraphs 8-18. *See* 37 C.F.R. § 42.123. This information could have been obtained earlier and submitted with the Petition, and its submission with Petitioner's Reply precludes Patent Owner's ability to submit any competing evidence. *See* Patent Trial and Appeal Board Consolidated Trial Practice Guide at 73 (Nov. 2019) ("Petitioner may not submit new evidence or argument in reply that it could have presented earlier"); *see also id.* ("The sur-reply may not be accompanied by new evidence other than deposition transcripts of the cross-examination of any reply witness"). Ex 1038 further includes new rationales that should have been submitted in the Petition. *See, e.g.,* 37 C.F.R. § 42.23(b); *see also* Patent Trial and Appeal Board Consolidated Trial Practice Guide at 74 (Nov. 2019) (citing *Intelligent Bio-Sys., Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369–70 (Fed. Cir. 2016) for "holding that the Board did not err in refusing the reply brief as improper under 37 C.F.R. § 42.23(b) because petitioner relied on an entirely new rationale to explain why one of skill in

the art would have combined the references at issue).”); *see id.* (“It is also improper for a reply to present new evidence (including new expert testimony) that could have been presented in a prior filing.”)

If Petitioner fails to correct the evidentiary defects associated with the above evidence in view of Patent Owner’s objections, Patent Owner reserves the right to file one or more motions to exclude the exhibits or portions thereof under 37 C.F.R. § 42.64(c).

Dated: June 3, 2024

Respectfully submitted,

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Counsel for Patent Owner

CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2024, a true and correct copy of the foregoing was caused to be served electronically on the following counsel of record for Petitioner at the following email addresses:

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