UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Hisense USA Corporation
Petitioner

v.

Brightplus Ventures LLC
Patent Owner

IPR2023-01168
Patent No. 9,605,835

**PETITIONER'S OBJECTIONS TO EVIDENCE SUBMITTED WITH PATENT OWNER'S RESPONSE**

Pursuant to 37 C.F.R. § 42.64(B), Petitioner Hisense USA Corporation ("Petitioner") objects as follows to the admissibility of the evidence served with Patent Owner's Response on April 23, 2024 (Paper 13).

| Ex. No. | Description | Objections |
|---|---|---|
| 2006 | Declaration of William K. Bohannon | **37 C.F.R. § 42.65**: The exhibit contains expert testimony that does not disclose the underlying facts or data on which the opinion is based.<br><br>**FRE 402**: The exhibit includes information that is not relevant to any ground upon which trial was instituted.<br><br>**FRE 403**: The exhibit includes information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.<br><br>**FRE 702/703 (Unreliable expert testimony)**: The exhibit contains statements and opinions that are not admissible under FRE 702 or 703. For example, the exhibit fails to identify facts or data supporting the witness's conclusory testimony, and that testimony thus is not based on sufficient facts or data. Further, the testimony is not the product of reliable principles and methods, and the witness fails to reliably apply the principles and methods of the facts of the case.<br><br>The exhibit contains opinions for which the factual bases have not been disclosed, including numerous broad and/or conclusory |

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|---|---|---|
| | | statements made without analysis or sufficient citation to evidence or explanation. *See also* Consolidated Trial Practice Guide, November 2019, at 36 ("Expert testimony, however, cannot take the place of a disclosure in a prior art reference, when that disclosure is required as part of the unpatentability analysis."). <br><br> The exhibit may contain statements that are not Mr. Bohannon's opinion, as large portions of the declaration are nearly identical to the Patent Owner Response. <br><br> **FRE 802**: The exhibit and statements included therein are inadmissible hearsay, and the witness has not been made available for cross-examination. <br><br> The witness has not been made available for deposition and should be stricken if Patent Owner attempts to rely on the exhibit without making the witness available for deposition. |
| 2007 | Curriculum vitae of William K. Bohannon | Petitioner objects to Mr. Bohannon's CV for the same reasons set forth above for his Declaration (Exhibit 2001). <br><br> **FRE 402**: The exhibit includes information that is not relevant to any ground upon which trial was instituted. Patent Owner never relies on this exhibit. *See also* 37 CFR § 42.104 ("The Board may exclude or give no weight to the evidence where a party has failed to state its relevance or to identify specific portions of the evidence that support the challenge."). <br><br> **FRE 403**: The exhibit includes information whose probative value to any ground upon which trial was instituted is substantially |

| Ex. No. | Description | Objections |
|---|---|---|
| | | outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.<br><br>**FRE 802**: The exhibit and statements included therein are inadmissible hearsay. |

Dated: April 26, 2024

Respectfully submitted,

By: */s/ Matias Ferrario*
Matias Ferrario
Registration No. 51,082
Lead Counsel for Petitioner

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date below a copy of this **PETITIONERS' OBJECTIONS TO EVIDENCE SUBMITTED WITH PATENT OWNER'S RESPONSE** was served on Patent Owner by filing through the P-TACTS System, as well as by delivering a copy via electronic mail to the following:

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Dated: April 26, 2024 By: */s/ Matias Ferrario*
Matias Ferrario
Registration No. 51,082