UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Videndum Production Solutions, Inc.
Petitioner,

v.

Rotolight Limited,
Patent Owner.

Case: IPR2023-01219
U.S. Patent No. 10,197,258

PETITIONER'S REPLY TO
PATENT OWNER'S PRELIMINARY RESPONSE

Institution of this Petition is consistent with public policy. Congress established IPRs "to improve patent quality and restore confidence in the presumption of [patent] validity." *Code200, UAB v. Bright Data Ltd.*, IPR2022-00861, Paper 18 at 5-6 (PTAB Aug. 23, 2022); Director Vidal's Memo. at 3-4 (June 21, 2022). Petitioner's challenge to the '258 Patent should be instituted as the Board already found a reasonable likelihood of invalidity on the same grounds. *Arnold & Richter Cine Technik GmbH & Co. Betriebs KG v. Rotolight, Ltd.*, IPR2021-01497, Paper 8 at 18-19 (PTAB Mar. 16, 2022). POPR requests denial of the Instant Petition based on (1) the petition in IPR2022-00262 ("VPS Petition") and (2) the petition in IPR2021-01497 ("ARRI Petition"). Neither argument supports denial.

I. Denial Based on the VPS Petition Would Be Inappropriate

The first three *General Plastic* factors favor institution. *General Plastic Indus. Co., Ltd. v. Canon Kabushiki Kaisha*, IPR2016-01357, Paper 19 at 16 (Sept. 6, 2017). These factors are intended to prevent "roadmapping." IPR2022-00861, Paper 18 at 5. Patent Owner cannot argue that Petitioner used the VPS Petition as a "roadmap" for the Instant Petition—the two petitions use different prior art, present different invalidity arguments, and Petitioner did not modify the Instant Petition in light of the decision on the VPS Petition. *Box, Inc. and Dropbox, Inc. v. Topia Tech., Inc.*, IPR2023-00427, Paper 17 at 22 (PTAB Aug. 4, 2023). Factor four is neutral. Factor five favors institution. The VPS Petition was filed, and terminated, before

Rotolight filed suit against Petitioner. *Current Lighting Sols., LLC v. Jiaxing Super Lighting Elec. Appliance Co., Ltd.*, IPR2023-00270, Paper 18 at 47, 52 (PTAB Aug. 16, 2023) Petitioner had no obligation to file sooner. Factors six and seven favor institution. The Board already found a likelihood that the '257 Patent may be invalid based on the same grounds raised in the Instant Petition. IPR2021-01496, Paper 8 at 15-16. The *General Plastic* factors weigh in favor of institution.

II. Denial Based on the ARRI Petition Would Be Inappropriate

There is no "significant relationship" between Petitioner and ARRI. Indeed, *they are direct competitors,* and therefore the *General Plastic* factors are of "little probative value." *Nanobebe US Inc. v. Mayborn (UK) Ltd.*, IPR2023-00467, Paper 11 at 10 (PTAB June 16, 2023). Patent Owner's reliance on *Valve Corp. v. Elec. Scripting Prods., Inc.*, IPR2019-00062, Paper 11 (PTAB Apr. 2, 2019) to assert a "significant relationship" is misplaced. *Valve* involved co-defendants accused of infringement based on the same product that were joined in a related IPR. IPR2019-00062, Paper 11 at 3, 9-10. *None of these facts are present here.* Petitioner and ARRI are competitors that were separately sued, based on different products, and did not collaborate on any IPRs.[1] *Keysight Techs., Inc. v. Centripetal Networks, LLC,*

[1] Patent Owner does not dispute these facts in its POPR. *Ericsson* is also disanalogous as the denied petition was one of many and used the prior petitions as

IPR2023-00446, Paper 9 at 10-11 (Aug. 7, 2023); IPR2023-00467, Paper 11 at 10.

Even if a significant relationship existed, the facts still favor institution because the ARRI Petition was instituted, mooting any "roadmapping" concerns. *Signify N. Am. Corp. v. CAO Lighting, Inc.*, IPR2023-00214, Paper 14 at 22 (PTAB June 15, 2023). POPR asserts that the Petition is a "copycat" of the ARRI Petition while also asserting a roadmap concern. POPR at 18-21. However, a petition cannot be both a copycat and the product of "roadmapping." *Cisco Sys., Inc. v. Centripetal Networks, Inc.*, IPR2022-01151, Paper 12 at 48-49 (PTAB Jan. 4, 2023). The *General Plastic* factors weigh heavily in favor of institution.

Dated: November 22, 2023

Respectfully submitted,

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a roadmap "picking and choosing from" the work product like "a menu." *Ericsson Inc. v. Uniloc 2017, LLC*, IPR2019-01550, Paper 8 at 12 (PTAB Mar. 17, 2020); *see Google LLC v. Uniloc 2017 LLC*, IPR2020-00396, Paper 11 at 5-17 (PTAB Aug. 3, 2020) (distinguishing *Ericsson*: "[t]he fact that [petitioners] are direct competitors who have been sued separately…weighs against finding a significant relationship").

CERTIFICATE OF SERVICE

Under 37 C.F.R. § 42.6(e), the undersigned certifies that on November 22, 2023, a copy of the foregoing PETITIONER'S RESPONSE TO PATENT OWNER'S PRELIMINARY RESPONSE was served in their entireties on the following counsel of record for Patent Owner via email:

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