

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PELOTON INTERACTIVE INC.,
Petitioner,

v.

NEC CORPORATION,
Patent Owner.

Case IPR2023-01239
Patent 8,752,101

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

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner NEC CORPORATION (“NEC”) respectfully submits the following objections to exhibits filed by Petitioner PELOTON INTERACTIVE, INC. (“Peloton”) in conjunction with its Petitioner’s Reply for Inter Partes Review of U.S. Patent No. 8,752,101 (“the Petition”). These objections are timely, as they are being made within five business days from the date of service of Petitioner’s Reply and supplemental evidence, August 27, 2024. Patent Owner reserves the right to present further objections to this or additional evidence submitted by Petitioner, as allowed by the applicable rules or other authority, including without limitation upon conclusion of cross-examination of Petitioner’s declarants.

The following chart lists NEC’s objections to the admissibility of certain documents (identified below) that is included within or accompanies the Petition, and the basis for those objections.

<u>Exhibit</u>	<u>Objections</u>
Exhibit 1040 (revised), ¶¶ 7-15	35 U.S.C. § 315(b); 35 U.S.C. § 312(a)(3); 37 C.F.R. § 42.22: The exhibit was entered into evidence after the one year statutory deadline for filing the petition and was not included with the original petition. 37 C.F.R. §§ 42.104(b)(5), 42.23(b): The exhibit raises new theories, arguments, and/or evidence that reasonably could have been presented in the initial petition and is beyond the scope of the arguments made in Patent Owner’s Reply.

<u>Exhibit</u>	<u>Objections</u>
	FRE 401–403: The opinions expressed in these paragraphs are irrelevant at least because they do not assist the trier of fact in understanding the evidence or determining a fact at issue as of the filing date of the challenged patent. Moreover, the opinions expressed in these paragraphs are irrelevant because Dr. Reader does not disclose the underlying facts or data upon which they are based, and therefore the opinions should be given little to no weight under 37 C.F.R. § 42.65(a). FRE 702 and 703: The opinion expressed in these paragraphs are based on insufficient facts or data, are not the product of reliable principles and methods, and do not reliably apply the appropriate principles and methods to the fact of the case.
Exhibit 1040 (revised), ¶¶ 16-18	35 U.S.C. § 315(b); 35 U.S.C. § 312(a)(3); 37 C.F.R. § 42.22: The exhibit was entered into evidence after the one year statutory deadline for filing the petition and was not included with the original petition. 37 C.F.R. §§ 42.104(b)(5), 42.23(b): The exhibit raises new theories, arguments, and/or evidence that reasonably could have been presented in the initial petition and is beyond the scope of the arguments made in Patent Owner’s Reply.

<u>Exhibit</u>	<u>Objections</u>
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Exhibit 1040 (revised), ¶¶ 21-24	35 U.S.C. § 315(b); 35 U.S.C. § 312(a)(3); 37 C.F.R. § 42.22: The exhibit was entered into evidence after the one year statutory deadline for filing the petition and was not included with the original petition. 37 C.F.R. §§ 42.104(b)(5), 42.23(b): The exhibit raises new theories, arguments, and/or evidence that reasonably could have been presented in the initial petition and is beyond the scope of the arguments made in Patent Owner’s Reply.

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Dated: September 4, 2024

Respectfully submitted,

/Eliot D. Williams/

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Counsel for Patent Owner

NEC Corporation

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e) and 42.105(a), this is to certify that I caused to be served a true and correct copy of the foregoing “PATENT OWNER’S OBJECTIONS TO EVIDENCE SUBMITTED WITH PETITIONER’S REPLY” via the PTAB’s E2E system and sent via email as detailed below.

Date of service: September 4, 2024

Documents served: PATENT OWNER’S OBJECTIONS TO EVIDENCE
SUBMITTED WITH PETITIONER’S REPLY

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