

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INNOSCIENCE (ZHUHAI) TECHNOLOGY COMPANY, LTD.,
AND
INNOSCIENCE AMERICA, INC.,
Petitioner,

v.

EFFICIENT POWER CONVERSION CORPORATION,
Patent Owner.

IPR2023-01381
U.S. Patent 8,350,294

PETITIONER'S OBJECTIONS TO PATENT OWNER'S EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b)(1) and the Federal Rules of Evidence (“FRE”), Petitioner objects to certain exhibits submitted by Patent Owner. Petitioner’s objections apply equally to Patent Owner’s reliance on these exhibits in any filed documents. These objections are timely, having been filed within five business days of the filing date of Patent Owner’s Response (Paper No. 18), filed June 12, 2024. Notwithstanding these objections, Petitioner reserves the right to rely on any evidence submitted by Patent Owner, including on the ground that such evidence constitutes a party admission.

Exhibit 2009

Petitioner objects to any and all paragraphs of Exhibit 2009 that were not cited to or relied upon in Patent Owner’s Response under FRE 401, 402, and 403. The paragraphs in Exhibit 2009 not cited or relied upon in Patent Owner’s Response lack relevance and their probative value is substantially outweighed by a danger of unfair prejudice, confusing the issues, misleading the factfinder, and wasting time.

Petitioner also objects to paragraphs 54-76 and 116-124 of Exhibit 2009 under FRE 401 and 402 and/or for breaching 37 CFR § 42.63(a). These paragraphs are irrelevant at least because they do not make any fact more or less probable than it would be without them. These paragraphs also breach 37 CFR § 42.63(a) by citing documents not filed in the form of an exhibit. Moreover, Petitioner objects to

paragraphs 54-76 and 116-124 paragraphs of Exhibit 2009 because any probative value is substantially outweighed by a danger of unfair prejudice, confusing the issues, misleading the factfinder, and wasting time under FRE 403.

Petitioner also objects to paragraphs 54-76 and 192-197 of Exhibit 2009 under FRE 702 and 703 for including statements that are not the product of reliable principles and methods, do not reliably apply the principles and methods to the facts of the case, and/or rely upon facts and data that would not reasonably be relied upon by someone in the relevant field. Petitioner also objects to paragraphs 192-197 of Exhibit 2009 under FRE 701 as including improper lay testimony to the extent they offer testimony in areas outside of Dr. E. Fred Schubert area of expertise or are unsupported by sufficient underlying facts or data.

Exhibit 2010

Petitioner objects to Exhibit 2010 under FRE 401 and 402 because it is irrelevant. This exhibit does not make any fact more or less probable than it would be without the evidence. Moreover, Petitioner objects to this exhibit because any probative value of the document is substantially outweighed by a danger of unfair prejudice, confusing the issues, misleading the factfinder, and wasting time under FRE 403.

Exhibit 2011 and 2013

Petitioner objects to Exhibits 2011 and 2013 under FRE 401 and 402. These exhibits are irrelevant because they are from a different *inter partes* review proceeding involving different prior art and a different patent. These exhibits do not make any fact more or less probable than it would be without the evidence. Moreover, Petitioner objects to these exhibits because any probative value of the document is substantially outweighed by a danger of unfair prejudice, confusing the issues, misleading the factfinder, and wasting time under FRE 403.

Exhibit 2012

Petitioner objects to pages 42 (line 18) to 49 (line 19) of Exhibit 2012 under FRE 401 and 402 as lacking relevance. These pages are irrelevant because they are out of the scope of this proceeding relating to a different *inter partes* review that involves different prior art and a different patent. Further Petitioner restates its objection to the form of the questions and other objections made at the deposition which include but are not limited objections stated in Exhibit 2012 at 18:1-2, 29:15, 33:16-17, 34:7-8; 35:12, 36:17-18, 37:3, 43:19-44:10, 48:14-19. Moreover, Petitioner objects to pages 42 (line 18) to 49 (line 19) of Exhibit 2012 because any probative value is substantially outweighed by a danger of unfair prejudice, confusing the issues, misleading the factfinder, and wasting time under FRE 403.

Exhibits 2014-2017

Petitioner objects to Exhibits 2014, 2015, 2016, and 2017 under FRE 106 as incomplete.

Petitioner also objects to Exhibits 2014, 2015, 2016, and 2017 under FRE 401 and 402 as lacking relevance. These exhibits are irrelevant at least because they do not make any fact more or less probable than it would be without the evidence. Moreover, Petitioner objects to these exhibits because any probative value of the document is substantially outweighed by a danger of unfair prejudice, confusing the issues, misleading the factfinder, and wasting time under FRE 403.

Petitioner objects to Exhibits 2014, 2015, 2016, and 2017 under FRE 801 and 802 to the extent Patent Owner relies on these exhibits for the truth of the matter asserted. Exhibits 2014, 2015, 2016, and 2017 are inadmissible hearsay and Patent Owner has not shown they fall within any recognized exception.

Exhibits 2018-2019

Petitioner objects to Exhibits 2018-2019 under FRE 106 as incomplete.

Petitioner objects to Exhibits 2018 and 2019 under FRE 401 and 402 as lacking relevance. These Exhibits are not relevant because they are from a different proceeding, a different patent in a different jurisdiction with different substantive

and procedural law, and are not controlling or persuasive authority. Petitioner also objects to Exhibits 2018 and 2019 as unduly prejudicial, confusing the issues, and misleading under FRE 403. Exhibits 2018 and 2019 would be prejudicial, confusing, and misleading because they would conflate this proceeding with another proceeding involving a different patent in a different jurisdiction.

Petitioner objects to Exhibits 2018 and 2019 under FRE 801 and 802 as inadmissible hearsay not falling within any recognized exception, to the extent Patent Owner relies on these exhibits for the truth of the matter asserted.

Petitioner also objects to these exhibits under FRE 602 for lack of foundation and lack of personal knowledge.

Petitioner objects to Exhibits 2018-2019 under FRE 901 and 1002 as Patent Owner has failed to show that these documents are original, authentic, or self-authenticated under FRE 902.

Exhibits 2020 and 2021

Petitioner objects to Exhibits 2020 and 2021 under FRE 401 and 402 as lacking relevance. These exhibits are irrelevant at least because they do not make any fact more or less probable than it would be without the evidence. Moreover, Petitioner objects to these exhibits because any probative value of the document is

substantially outweighed by a danger of unfair prejudice, confusing the issues, misleading the factfinder, and wasting time under FRE 403.

Petitioner objects to Exhibits 2020 and 2021 under FRE 801 and 802 as inadmissible hearsay not falling within any recognized exception, to the extent Patent Owner relies on these exhibits for the truth of the matter asserted.

Petitioner also objects to these exhibits under FRE 602 for lack of foundation and lack of personal knowledge.

Petitioner objects to Exhibits 2020 and 2021 under FRE 901 and 1002 as Patent Owner has failed to show that these documents are original, authentic, or self-authenticated under FRE 902.

Respectfully submitted,

Dated: June 20, 2024

/Lionel M. Lavenue/

Lionel M. Lavenue

Reg. No. 46,859

Counsel for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **Petitioner's Objections to Patent Owner's Evidence** were served on June 20, 2024, via email directed to counsel of record for the Patent Owner at the following:

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Dated: June 20, 2024

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