

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

EFFICIENT POWER CONVERSION CORPORATION,
Patent Owner.

Case IPR2023-01383
Patent No. 8,404,508

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

Pursuant to 37 CFR § 42.64(b)(1), Petitioner hereby objects to Exhibit 2008 submitted by Efficient Power Conversion Corporation (“Patent Owner”) with its Sur-Reply on October 16, 2024.

Petitioner objects to Exhibit 2008 under 37 CFR § 42.23(b) as new evidence first presented in Patent Owner’s Sur-reply. “A sur-reply may only respond to arguments raised in the corresponding reply and may not be accompanied by new evidence other than deposition transcripts of the cross-examination of any reply witness.” 37 CFR § 42.23(b); *see also Consolidated Trial Practice Guide*, p. 73 (“The sur-reply may not be accompanied by new evidence other than deposition transcripts of the cross- examination of any reply witness.”). Exhibit 2008 is not a deposition transcript of the cross-examination of any reply witness. Patent Owner did not seek authorization from the Board to submit the exhibit with Patent Owner’s Sur-Reply. Therefore, Exhibit 2008 constitutes improper new evidence.

Petitioner further objects to Exhibit 2008 as being irrelevant, misleading, and confusing, and its probative value, if any, is outweighed by prejudice. *See* Federal Rules of Evidence (“FRE”) 401-403. Exhibit 2008 purports to be a hearing transcript from an ITC investigation. The probative value is substantially outweighed by the danger of unfair prejudice, confusing the issues, misleading the factfinder, undue delay, wasting time, or needlessly presenting cumulative evidence. FRE 403.

Petitioner further objects to Exhibit 2008 under Administrative Procedure Act because Exhibit 2008 presents new evidence that Petitioner does not have an opportunity to respond to.

Date: October 23, 2024

Respectfully submitted,

/Lionel Lavenue/
Lionel Lavenue, Lead Counsel
Reg. No. 46,859

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing **Petitioner's Objections to Evidence Submitted with Patent Owner's Sur-Reply** was served electronically on October 23, 2024, via email directed to counsel of record for the Patent Owner at:

Walter D. Davis, Jr.
walter.davis@blankrome.com

Dipu Doshi
dipu.doshi@blankrome.com

Mark F. Mashack
mark.mashack@blankrome.com

Stephen Soffen
stephen.soffen@blankrome.com

Cory R. Edwards
cory.edwards@blankrome.com

Ameya V. Paradkar
arun.paradkar@blankrome.com

Jonathan England
jonathan.england@blankrome.com

EPCC-Inno-IPRS@blankrome.com

Dated: October 23, 2024

By: /Daniel E. Doku/
Daniel E. Doku
Litigation Legal Assistant
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.