

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VIZIO, INC.,
Petitioner

v.

POLARIS POWERLED TECHNOLOGIES, LLC,
Patent Owner

Case IPR2024-00073
U.S. Patent No. 7,843,148

PATENT OWNER’S OBJECTIONS TO EVIDENCE

Mail Stop “PATENT BOARD”
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Patent Owner Polaris PowerLED Technologies, LLC (“Patent Owner”), objects under the Federal Rules of Evidence (FRE) and 37 C.F.R. § 42.64(b)(1) to the admissibility of Exhibits 1003, 1006, 1008, 1009, 1011-1014, 1016-1020, and 1026 (the “Challenged Evidence”), filed by Petitioner Vizio, Inc. (“Petitioner”), on October 20, 2023, with the Petition for *Inter Partes* Review.

Patent Owner’s Objections are timely filed under 37 C.F.R. § 42.64(b)(1), within 10 business days of the March 6, 2024 Institution Decision. Patent Owner files these Objections to provide notice to Petitioner that Patent Owner may move to exclude the Challenged Evidence under 37 C.F.R. § 42.64(c).

I. EXHIBIT 1003

Patent Owner objects to Exhibit 1003 to the extent Dr. Zane relies on Exhibits 1006, 1008, 1009, 1011-1014, 1016-1020, and 1026 for the same reasons as provided below, and/or because Exhibits 1006, 1008, 1009, 1011-1014, 1016-1020, and 1026 are not qualified to be the basis for an expert opinion under FRE 703. Therefore, these portions of Exhibit 1003 are inadmissible under FRE 702 and FRE 703.

Patent Owner also objects to Exhibit 1003, including at least ¶¶ 16, 30, 35, 51, 54-76, 78-104, 106-121, 123-127, 129-135, 137-138, 141-192, 194-203, and 205, as improper expert testimony under FRE 702, 703 and 37 C.F.R. § 42.65. There has not been an adequate showing that Dr. Zane’s testimony is based on

sufficient facts or data, is the product of reliable principles or methods, or that the testimony will help the Board understand the evidence or determine a fact in issue.

Patent Owner further objects to ¶¶ 1-28, 31-33, 107, and 204-206 of Exhibit 1003 as being irrelevant under FRE 401, 402, and 403 because they have not been relied upon in support of any argument made in the Petition.

II. EXHIBIT 1006

Patent Owner objects to Exhibit 1006 under FRE 901 because Petitioner has not presented evidence sufficient to support a finding that the document in question is what Petitioner claims it to be. There is no evidence that the document is self-authenticating under FRE 902.

III. EXHIBITS 1008, 1011-1014, 1016-1019, AND 1026

Patent Owner objects to Exhibits 1008, 1011-1014, 1016-1019, and 1026 under FRE 401, 402, and 403 for including information that is irrelevant or 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.

Patent Owner also objects to Exhibits 1008, 1011, 1013, 1014, 1016-1019, and 1026 as impermissible hearsay under FRE 801 and 802 to the extent these exhibits are offered for the truth of the matters asserted. Petitioner has not

identified any applicable exception or exclusion to the rule against hearsay that applies to these exhibits.

Patent Owner further objects to Exhibits 1008, 1011, 1013, 1014, 1016-1019, and 1026 under FRE 901 because Petitioner has not presented evidence sufficient to support a finding that the documents in question are what Petitioner claims them to be. There is no evidence that the documents are self-authenticating under FRE 902.

Patent Owner further objects to each of Exhibits 1008, 1011, and 1014 under FRE 106 as being incomplete and Petitioner has not produced or otherwise made available the full content of the documents to Patent Owner, and under FRE 106 as omitting the remainder of writings that ought to be considered at the same time as Exhibits 1008, 1011, and 1014.

IV. EXHIBITS 1009 AND 1020

Patent Owner objects to Exhibit 1009 as improper expert testimony under FRE 702, 703 and 37 C.F.R. § 42.65. There has not been an adequate showing that Ms. Watters's testimony is based on sufficient facts or data, is the product of reliable principles or methods, or that the testimony will help the Board understand the evidence or determine a fact in issue.

Patent Owner also objects to Exhibit 1020 as improper expert testimony under FRE 702, 703 and 37 C.F.R. § 42.65. There has not been an adequate

showing that Mr. MacPherson's testimony is based on sufficient facts or data, is the product of reliable principles or methods, or that the testimony will help the Board understand the evidence or determine a fact in issue.

Patent Owner also objects to the Appendices attached to Exhibits 1009 and 1020 as impermissible hearsay under FRE 801 and 802 to the extent these documents are offered for the truth of the matters asserted. Petitioner has not identified any applicable exception or exclusion to the rule against hearsay that applies to these documents. Patent Owner further objects to the Appendices attached to Exhibits 1009 and 1020 under FRE 901 because Petitioner has not presented evidence sufficient to support a finding that the documents in question are what Petitioner claims them to be. There is no evidence that the documents are self-authenticating under FRE 902.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX PLLC

/Richard M. Bemben/

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Attorney for Patent Owner

Date: March 20, 2024

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

I certify that the above-captioned **PATENT OWNER'S OBJECTIONS TO EVIDENCE** was served in its entirety on March 20, 2024, upon the following parties via electronic mail:

Sheila N. Swaroop (Lead Counsel)
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Respectfully submitted,

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