UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MONOLITHIC POWER SYSTEMS, INC.,

Petitioner,

v.

GREENTHREAD, LLC,

Patent Owner.

Case No: IPR2024-00469

U.S. Patent No. 9,190,502

PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION TO EXCLUDE EVIDENCE

Petitioner Monolithic Power Systems, Inc., opposes Patent Owner Greenthread, LLC's motion to exclude Exhibit 1059. (Paper 56.)

Patent Owner's request to exclude under Fed. R. Evid. 401, 403, and 901 is misguided. Patent Owner argues that there is no evidence of Exhibit 1059's publication as of a certain date and, consequently, its status as prior art. Exhibit 1059 was, however, never presented as prior art. This exhibit was submitted in Reply as a secondary citation (after a citation to Dr. Campbell's deposition) for the technical proposition that "the field effect from the P-N junction requires an applied voltage for electrons to flow." (Reply at 16 (citing EX2058 at 35:10-17 and then EX1059 at 18-20).) Exhibit 1059's status as prior art—and is public availability—is immaterial to this proceeding.

Patent Owner's request to exclude Exhibit 1059 under Fed. R. Evid. 401/403 should be rejected. This exhibit bears probative value to the issue it was presented for (*i.e.*, the science of the P-N junction) and this value is not substantially outweighed by any question regarding when (or if) the exhibit was publicly available. *See* Fed. R. Evid. 403 (stating that evidence may be excluded if its probative value is substantially outweighed by several dangers). Furthermore, the Board—as a gate-keeper and weigher of evidence—is more than equipped to determine the amount of weight (if any) to give Exhibit 1059's technical discussion. *FourSquare Labs, Inc. v. Boardactive Corp.,* IPR2023-00919, Paper 29 at Pg. 84

(PTAB 2024) (refusing to exclude under Fed. R. Evid. 401-403 due to the Board's role even if it determined that the party seeking to exclude were correct). The Board regularly denies the types of requests presented by Patent Owner, and should do so here.

Exclusion under Fed. R. Evid. 901 is also unwarranted. A proponent of evidence merely needs to make a showing "sufficient to support a finding that the item is what the proponent claims it is." Fed. R. Evid. 901(a). "[A]uthentication is a low bar, requiring only a rational basis that [the exhibit] is what it is asserted to be." *Inductev Inc. v. Witricity Corp.*, IPR2021-01166, Paper 34 at Pg. 53 (PTAB 2022); *see also United States v. Turner*, 934 F.3d 794, 798 (8th Cir. 2019)). Here, Exhibit 1059—on its face—provides a rational basis to support that it is educational material describing the science of P-N junctions; it states that it is an excerpt from "Solar Cells: Resource for the Secondary Science Teacher" by Dr. Alistar Sproul of the University of New South Wales. (EX1059 at 1.) Petitioner does not, and has not, relied on any date of Exhibit 1059's public availability and exclusion is unwarranted.

Tellingly, all of Patent Owner's case-law citations and arguments are inapt. *Hulu, LLC v. Sound View Innovations, LLC*, is a Board-precedential decision that describes the requisite showing of a reasonable likelihood—at the pre-institution stage—that a printed publication is prior art. IPR2018-01039, Paper 29 (PTAB

2019) (precedential); *see also* https://www.uspto.gov/patents/ptab/precedential-informative-decisions (the Board describing Hulu as "for purposes of institution, a petitioner must show a reasonable likelihood that an asserted reference qualifies as a printed publication"). Patent Owner cites *Fanduel, Inc. v. CG Tech. Dev., LLC* and *TRW Automotive U.S. LLC v. Magna Elecs. Inc.* for the general—but irrelevant—proposition that a copyright date by itself does not demonstrate public availability as of a certain date. All of Patent Owner's citations miss the point, and Patent Owner has not provided any case where the Board excluded an exhibit like Exhibit 1059.

Finally, exclusion under these circumstances would be very atypical for Board practice. Requiring that a public availability date be proven for secondary technical papers—which do not form the basis of any ground—would complicate PTAB trials and frustrate their purpose as a "quick and cost effective alternative[] to litigation." *See* PTAB Trial Practice Guide at pg. 56 (citing H.R. Rep. No. 112–98, pt. 1, at 40 (2011), 2011 U.S.C.C.A.N. 67, 69) (Guide available at https://www.uspto.gov/sites/default/files/documents/tpgnov.pdf). Furthermore, the Board can reach Final Written Decision without reliance on Exhibit 1059 because it does not form the basis of any ground. *See id.* at 79–80 ("In the Board's experience, consideration of the objected-to evidence is often unnecessary to resolve the patentability of the challenged claims, and the motion to exclude is moot."); *see also*

Machinex Industries, Inc. v. JJG IP Holdings, LLC, IPR20-20-00899, Paper 45 at Pg. 109 (denying as moot exhibit that did not form a basis for a ground).

Exhibit 1059 should thusly not be excluded.

Dated: May 2, 2025

Respectfully submitted,

/ John Esterhay /

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that true copies of the foregoing **PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION TO EXCLUDE EVIDENCE** were served in their entirety this 2nd of May, 2025 by electronic mail on the Patent Owner via its attorneys of record:

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Dated: May 2, 2025

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