UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MONOLITHIC POWER SYSTEMS, INC.,
Petitioner,

v.

GREENTHREAD, LLC,
Patent Owner.

IPR2024-00553
U.S. Patent No. 11,316,014

PATENT OWNER'S MOTION TO EXCLUDE EVIDENCE PURSUANT TO 37 C.F.R. § 42.64

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.64(c), the Board's Scheduling Order (Paper 26, 10), and the Federal Rules of Evidence, Patent Owner Greenthread, LLC ("Patent Owner") hereby moves to exclude Exhibit 1059 submitted by Petitioner Monolithic Power Systems, Inc. ("Petitioner") with its Reply (Paper 37), to which Patent Owner timely objected (Paper 38).

II. EXHIBIT 1059 SHOULD BE EXCLUDED

Exhibit 1059, titled "Understanding the *p-n* Junction," should be excluded because it is irrelevant and lacks proper authentication. Exhibit 1059 comprises two seemingly disjointed references: Pages 1-12 appear to be a digital scan of a textbook chapter, while pages 13-31 appear to be an excerpt from a slide presentation. As an initial matter, it is unclear to PO—and almost certainly the Board—whether these two documents come from the same source.

First, Exhibit 1059 is irrelevant under FRE 401 and 403, since there is ***zero*** evidence on the face of the document to determine whether it was published or publicly accessible before the critical date of the Challenged Patent. There is no date found in either the textbook or the slide presentation portion of the PDF. Petitioner has not identified any evidence sufficient to establish a reasonable likelihood that the reference was publicly accessible before the critical date and is thus relevant to the dispute concerning the Challenged Patent. *Cf. Hulu, LLC v. Sound View*

Innovations, LLC, IPR2018-01039, Paper 29 at 13 (PTAB Dec. 20, 2019) (precedential). Nor can Petitioner rely on the copyright notice affixed on the bottom of PDF pages 1-12, since "[a] copyright notice, without additional evidence, is *not* sufficient to establish that a document was sufficiently accessible to the public interested in the relevant technology before the critical date." *Fanduel, Inc. v. CG Tech. Dev., LLC*, IPR2017-00902, Paper 45 at 71 (PTAB Oct. 4, 2018) (citing *In re Lister*, 583 F.3d 1307, 1311-17 (Fed. Cir. 2009)). A copyright notice, on its own, "sheds virtually no light on whether the document was publicly accessible." *In-Depth Geophysical, Inc., et al. v. ConocoPhillips Co.*, IPR2019-00849, Paper 14 at 10-11 (PTAB Sept. 6, 2019) (informative). *See also Stryker Corp. v. Karl Storz Endoscopy-Am., Inc.*, IPR2015-00677, Paper 15 at 18-19 (PTAB Sept. 2, 2015) (A copyright notice "does not establish when a document was publicly accessible under patent law."); *TRW Automotive U.S. LLC v. Magna Elecs. Inc.*, IPR2014-01348, Paper 25 at 8-10 (PTAB Jan. 15, 2016).

Furthermore, the fact that the Sproul reference (Ex. 1059) was not offered as asserted prior art is immaterial. Petitioner relies on this exhibit to purportedly explain a POSITA's knowledge regarding the "field effect from [] P-N junctions."[1] Pet.

[1] In a related IPR, Petitioner claims that Ex. 1059 was not presented to "show a POSITA's knowledge of the art as of a certain date," but only to "describe the

Reply at 15. But because obviousness is determined based on a POSITA's knowledge "at the time the invention was made," knowing the Sproul reference's date of public availability is necessary if it is to be used for this purpose. *See Spectrum Solns., L.L.C. v. DNA Gemotek Inc.*, IPR2022-01347, Paper 43 at 28 (PTAB Feb. 7, 2024); *see also KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). Here, Petitioner must prove that the reference is what it is claimed to be and whether it was "accessible to a POSITA as of the earliest effective filing date" of the challenged patent. *Spectrum* at 28. Nothing in Ex. 1059 itself—nor any other evidence provided by Petitioner—would support an assertion that the Sproul reference was publicly available before the challenged patent's critical date.

Second, Petitioner has not offered any evidence sufficient to support a finding that the exhibit (and the pages cited in its Reply) is what Petitioner claims it is under FRE 901. Furthermore, the slide presentation beginning at page 13 does not even appear to be from the same source document as the excerpted textbook on pages 1-12. Here, "every indication" is that pages 13-21 are "from a different document than

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physics of the P-N junction." IPR2024-00550, Paper 53 at 1. But Petitioner cannot take the reference out of the context in which it was presented. Citing to a reference purportedly explaining the "physics" in connection with Petitioner's expert's testimony necessarily speaks to a POSITA's knowledge.

the remainder" of Ex. 1059, since these pages are in "landscape orientation while the remaining pages … are in [] portrait orientation." *SDI Techs., Inc. v. Bose Corp.*, IPR2013-00465, Paper 40 at 17 (PTAB Nov. 7, 2014). There is nothing to demonstrate that these two seemingly disparate documents are part of the same original source or that such a source is authenticated. This calls into question the reliability and authenticity of the ***entire*** exhibit, regardless of which pages Petitioner relies upon. Petitioner has not submitted any sort of supporting declaration to authenticate this document, nor is the document self-authenticating under FRE 902.

III. CONCLUSION

For at least the foregoing reasons, the Board should exclude Exhibit 1059.

Dated: June 18, 2025

Respectfully submitted,

/Alan Whitehurst/

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CERTIFICATION OF SERVICE

The undersigned hereby certifies that a copy of this **PATENT OWNER'S MOTION TO EXCLUDE EVIDENCE** has been served on Petitioner via email on the following counsel of record for Petitioner:

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