UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO. LTD.,
SAMSUNG ELECTRONICS AMERICA, INC.,
GOOGLE LLC, and MICROSOFT CORPORATION
Petitioners,

v.

EYESMATCH LTD.,
Patent Owner.

Case No. IPR2024-00810[1]
U.S. Patent No. 8,982,110

PATENT OWNER'S OBJECTIONS TO PETITIONERS' EVIDENCE SUBMITTED WITH PETITIONERS' REPLY RE: *INTER PARTES* REVIEW OF U.S. PATENT NO. 8,982,110

[1] IPR2025-00296 has been joined with this proceeding.

Patent Owner EyesMatch Ltd. ("Patent Owner"), pursuant to 37 C.F.R. § 42.64(b)(1), objects to the following exhibits filed on May 29, 2025, by Petitioners Samsung Electronics Co. Ltd., Samsung Electronics America, Inc., and Google LLC ("Petitioners"), in connection with Petitioners' Reply to Patent Owner's Response ("Reply"). Patent Owner serves these objections to provide notice that Patent Owner may move to exclude the evidence to which these objections are directed under 37 C.F.R. § 42.64(c). Patent Owner reserves the right to object to the exhibits on grounds in addition to those set forth below, should Petitioners attempt to offer any exhibit for a purpose other than for which the exhibit(s) is/are offered in Petitioners' Reply.

I. EXHBIT 1033

In regard to Exhibit 1033, Patent Owner objects to this Exhibit as providing untimely opinions that Dr. Karam could have offered in her initial expert declaration [Exhibit 1003] and should be excluded pursuant to 37 C.F.R. § 42.5(a) and § 42.7(a). As Exhibit 1033 is untimely, it is also substantially prejudicial relative to any marginal probative value it may have and should be excluded pursuant to FRE 403.

Patent Owner objects to all statements contained in Petitioners' Reply to Patent Owner's Response [Paper No. 32] that rely on Exhibit 1033 for support, in whole or in part, including, without limitation, at least those contained on pages: 10, 11, 12, 14, 15, 17, 18, 19, 26.

II. EXHIBIT 1034

In regard to Exhibit 1034, Patent Owner preserves any objections made on the record.

III. EXHIBIT 1035

In regard to Exhibit 1035, Patent Owner objects to this Exhibit as untimely alleged prior art that Petitioners could have identified in their Petition or in Dr. Karam's initial expert declaration [Exhibit 1003] and should be excluded pursuant to 37 C.F.R. § 42.5(a) and § 42.7(a). As Exhibit 1035 is untimely, it is also substantially prejudicial relative to any marginal probative value it may have and should be excluded pursuant to FRE 403.

Patent owner objects to all statements contained in the Second Declaration of Dr. Karam [Exhibit 1033] that rely on Exhibit 1035 for support, in whole or in part, including, without limitation, at least those contained in paragraphs: ¶¶ 16, 17, 18, 19, 23, 24, 27, 28, 29, 32, 34. These statements should be excluded for the reasons given to exclude Exhibit 1035.

IV. EXHIBIT 1037

In regard to Exhibit 1037, Patent Owner objects to this Exhibit as untimely alleged prior art that Petitioners could have identified in their Petition or in Dr. Karam's initial expert declaration [Exhibit 1003] and should be excluded pursuant to 37 C.F.R. § 42.5(a) and § 42.7(a). As Exhibit 1037 is untimely, it is also

substantially prejudicial relative to any marginal probative value it may have and should be excluded pursuant to FRE 403.

Patent owner objects to all statements contained in the Second Declaration of Dr. Karam [Exhibit 1033] that rely on Exhibit 1037 for support, in whole or in part, including, without limitation, at least those contained in paragraphs: ¶¶ 9, 10, 12, 21, 22, 23, 24, 25, 27. These statements should be excluded for the reasons given to exclude Exhibit 1037.

V. EXHIBIT 2012

Patent Owner objects to the deposition testimony of Dr. Karam relied on in Petitioners' Reply as constituting new evidence and supporting new argument that Petitioners could have presented earlier, including to make out a *prima facie* case of unpatentability. *See* U.S. Patent Trial and Appeal Board, Consolidated Trial Practice Guide 73 (Nov. 2019) (Petitioner "may not submit new evidence or argument in reply that it could have presented earlier, e.g. to make out a prima facie case of unpatentability."). Specifically, Patent Owner objects to the following cited transcript portions: 44:4-10, 49:1-4, 49:23-50:1, 50:10-51:3, 50:10-11, 50:13-52:2, 51:1-3, 51:13-15, 51:13-52:2, 51:19-52:1, 52:22-23, 60:10-15, 60:16-20, 61:8-12, 62:2-6, 63:9-22, 63:13-22, 64:4-9, 70:24-71:5, 71:6-13, 72:6-24, 83:13-16, 85:7-15, 86:21-23, 87:22-25, 111:13-21, 112:2-6, 174:21-175:1, 182:3-8, 189:20-190:1, 190:13-19, 191:5-13, 191:5-20, 191:18-20, 193:8-22, 205:9- 206:2, 205:24-206:3,

243:24-244:2, 245:9-12, 247:22-248:8, 245:9-12, 247:22-248:8, 252:18-23, 253:24-254:2, 254:22-255:8, 257:14-258:25, 258:5-8, 258:5-15, 258:13-21, 259:19-21. As this evidence and argument is untimely, it is also substantially prejudicial relative to any marginal probative value it may have and should be excluded pursuant to FRE 403.

Petitioners rely upon this testimony to make and support new arguments that they could and should have made in the Petition concerning why a POSITA would purportedly understand the asserted Grounds to disclose "mirror tracking mode" under the construction Petitioners advanced in district court but did not disclose to the Board. This includes: argument and testimony that the asserted Grounds themselves disclose the requirements of "mirror tracking mode" as required by Petitioners' own construction; and argument and testimony that the knowledge of a POSITA would supply any missing disclosure. Neither argument was made in the Petition, or supported by the Petition, and as such is improper.

Dated: June 5, 2025

Respectfully submitted.

/John C. Pierce/

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CERTIFICATION OF SERVICE (37 C.F.R. §§ 42.6(e), 42.105(a))

The undersigned hereby certifies that on June 5, 2025, copies of the foregoing were served via Electronic Mail to the following:

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