

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

EYESMATCH LTD.,
Patent Owner.

Case No. IPR2024-00856
U.S. Patent No. 8,982,109

**PATENT OWNER’S OBJECTIONS TO PETITIONERS’ EVIDENCE
SUBMITTED WITH PETITIONERS’ REPLY RE: *INTER PARTES*
REVIEW OF U.S. PATENT NO. 8,982,109**

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 Google LLC, Samsung Electronics Co. Ltd., and Samsung Electronics America, Inc. (“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. EXHIBIT 1046

In regard to Exhibit 1046, Patent Owner preserves any objections made on the record.

II. 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: 47:1-52:2, 50:13- 52:2, 53:12-54:8, 59:7-60:20, 69:14-71:23, 74:24-75:13, 83:1-16, 84:7-88:21, 84:11-88:21, 105:5-106:13, 105:5-110:2, 106:20-107:16, 106:20-110:2, 174:16-175:1, 180:10-16, 190:21-191:13, 191:1-193:22, 220:21-221:1, 229:2-17, 254:3-255:8, 253:6-25, 261:16-262:5, 262:9-264:21, 254:3-255:8, 257:14-258:25, 259:6-21. 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 mimicking” 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 mimicking” 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/

John C. Pierce
Tensegrity Law Group LLP
USPTO Reg. No. 79,938
1676 International Drive
Suite 910
McLean, VA 22102
Telephone: 865-388-5914
Facsimile: 650-802-6001
Email: john.pierce@tensegritylawgroup.com

Matthew D. Powers, *pro hac vice*
William P. Nelson, *pro hac vice*
Natasha M. Saputo, *pro hac vice*
Tensegrity Law Group LLP
555 Twin Dolphin Drive, Suite 650
Redwood Shores, CA 94065
Telephone: 650-802-6000
Facsimile: 650-802-6001
Email:
matthew.powers@tensegritylawgroup.com
william.nelson@tensegritylawgroup.com
natasha.saputo@tensegritylawgroup.com
eyesmatch_team@tensegritylawgroup.com

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:

<u>Lead Counsel</u>	<u>Backup Counsel</u>
Erika H. Arner (Reg. No. 57,540) Finnegan, Henderson, Farabow, Garrett & Dunner, LLP 1875 Explorer Street Suite 800 Reston, VA 20190-5675 (571) 203-2754 (202) 408-4400 erika.arners@finnegan.com	Sydney R. Kestle (Reg. No. 78,725) Finnegan, Henderson, Farabow, Garrett & Dunner, LLP 901 New York Avenue, NW Washington, DC 20001-4413 (202) 408-4000 sydney.kestle@finnegan.com Xirui Zhang (Reg. No. 78,809) Finnegan, Henderson, Farabow, Garrett & Dunner, LLP Two Seaport Lane Boston, MA 02210-2001 (617) 646-1600 xirui.zhang@finnegan.com Kara A. Specht (Reg. No. 69,560) Finnegan, Henderson, Farabow, Garrett & Dunner, LLP 271 17th Street, NW, Suite 1400 Atlanta, GA 30363-6209 (404) 653-6400 (404) 653-6444 kara.specht@finnegan.com Eliot D. Williams (Reg. No. 50,822) Baker Botts L.L.P. 700 K Street, N.W. Washington, DC 20001 (202) 639-1334 DLBBSamsungEyesmatch @BakerBotts.com

	Neil Sirota, (Reg. No. 38, 306) Margaret M. Welsh (Reg. No. 70, 745) Chun Xu (Reg. No. 800, 021) Pallavi Mathur (Reg. No. 80, 102) Baker Botts L.L.P. 30 Rockefeller Plaza New York, NY 10112 (212) 408-2500 DLBBSamsungEyesmatch@BakerBotts.com Jose Villarreal (Reg. No. 43, 969) Baker Botts L.L.P. 401 South 1st Street Austin, TX 78704 (512) 322-2500 DLBBSamsungEyesmatch@BakerBotts.com
--	--

/John C. Pierce/

John C. Pierce
USPTO Reg. No. 79,938
Tensegrity Law Group LLP
1676 International Drive
Suite 910
McLean, VA 22102
Telephone: 865-388-5914
Facsimile: 650-802-6001
Email: john.pierce@tensegritylawgroup.com