

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,
Petitioner,
v.
EYESMATCH LTD.,
Patent Owner.

IPR2024-00810 (Patent 8,982,110 B2)

GOOGLE LLC,
SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC., and
MICROSOFT CORPORATON
Petitioner,
v.
EYESMATCH LTD.,
Patent Owner.

IPR2024-00856 (Patent 8,982,109 B2)

Before THOMAS L. GIANNETTI, NEIL T. POWELL, and
MICHAEL CYGAN, *Administrative Patent Judges*.

GIANNETTI, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

I. BACKGROUND

The Board received an email dated June 5, 2025, from Patent Owner's counsel, requesting authorization to file a motion to strike portions of Petitioners' Reply to Patent Owner's Response in IPR2024-00810 (Paper 32) and IPR2024-00856 (Paper 26). The request states "Patent Owner seeks authorization to move to strike those portions of Petitioners' Replies that it believes raise untimely new theories, argument, and evidence regarding how the asserted Grounds are purported to disclose or render obvious the claimed 'mirror tracking mode' (IPR2024-00810) and 'mirror mimicking' (IPR2024-00856) terms under the claim construction Petitioner Samsung proposed before the district court and obtained but that it did not propose in these proceedings." Further, "Patent Owner also seeks to strike those portions of the Reply in IPR2024-00810 which rely on the second declaration of Petitioners' expert Dr. Karam and her deposition testimony, which Patent Owner contends exceeded the scope of her first declaration and presents new argument and evidence, including new 'background' prior art."

In an email to the Board dated June 6, 2025, Petitioner stated its opposition to Patent Owner's request: "Patent Owner's request has no merit as the grounds have not changed in either IPR, and all arguments made in Petitioners' replies are responsive to those made by Patent Owner in its response."

In a follow-up email dated June 9, 2025, after meeting and conferring with Petitioner's counsel, Patent Owner "confirmed" that it would seek to strike the following portions of the Petitioner's replies:

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p. 4: paragraph beginning “Regardless, and as explained below...”

p. 6: paragraph beginning “The record reveals...”

Sections III.A.1.a-d, III.B.1, III.B.2, and III.C.1

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Sections III.A.1, III.A.2, III.A.3¹

II. DISCUSSION

The panel held a conference with counsel for the parties to discuss this request on June 12, 2025.² The discussion centered around the Federal Circuit’s decision in *Axonics, Inc. v. Medtronic, Inc.*, 75 F.4th 1374 (Fed. Cir. 2023), and the Board’s informative decision in *Cambridge Mobile Telematics, Inc. v. Sfara, Inc.*, IPR2024-00952, Paper 12 (PTAB Dec, 13, 2024). The schedule for filing the proposed motions and proposed motions to exclude also was discussed. Patent Owner requested the motions to strike, if authorized, be due on the same day as the motions to exclude. Patent Owner’s counsel agreed to contact the Board before filing its motions to exclude.

At the end of the discussion, the panel took the matter under advisement.

¹ A typo in the email identified this section as III.A.III.

² Judges Giannetti, Powell, and Cygan participated in the conference. Petitioner Samsung was represented by Eliot Williams, Neil Sirota, and Margaret Welsh. Patent Owner was represented by John Pierce and William Nelson. Counsel for Petitioners Google and Microsoft were also on the call.

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III. ORDER

It is, therefore,

ORDERED that Patent Owner is authorized to file in each of these proceedings a motion to strike of no more than 10 pages limited to the items identified in the Patent Owner's June 9, 2025 email to the Board;

FURTHER ORDERED that Petitioners may file an opposition to each of these motions of no more than 10 pages;

FURTHER ORDERED that no further briefing on these motions is authorized at this time;

FURTHER ORDERED that the motions to strike are due no later than the due date for filing motions to exclude evidence in these proceedings, (Due Date 6 on the Scheduling Order) currently August 21, 2025; and

FURTHER ORDERED that oppositions are due 14 days after the motions are filed.

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For PETITIONER (IPR2024-00810)

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