

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DYSON TECHNOLOGY LIMITED AND DYSON, INC.,
Petitioners,

v.

OMACHRON INTELLECTUAL PROPERTY INC.,
Patent Owner.

Case No. IPR2024-00938
U.S. Patent No. 11,389,038

**PATENT OWNER'S OBJECTIONS TO EVIDENCE SUBMITTED BY
PETITIONERS**

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Omachron Intellectual Property Inc. (“Omachron”) objects to the following exhibits filed by Petitioners Dyson Technology Limited and Dyson, Inc. (“Petitioners” or “Dyson”) with the Petition.

Exhibit No.	Objection(s)
1002	Federal Rules of Evidence (FRE) 402/403/702/703: Dr. Giachetti repeatedly offers only the inadmissible bare conclusion that it would have been “obvious” for a Skilled Artisan to combine certain references, to make certain modifications, or to “try” certain modifications without explicit guidance, without providing the required factual support or analysis. <i>See, e.g.</i>, EX1002, ¶¶ 119–20, 151–68, 219–26, 230–32, 236–44, 246–57, 268–78, 291–96, 297–99, 300–302, 303–42, 344–54. As the Federal Circuit held in <i>TQ Delta, LLC v. Cisco Sys.</i>, “conclusory expert testimony does not qualify as substantial evidence.” 942 F.3d 1352, 1358 (Fed. Cir. 2019) (citing <i>MobileMedia Ideas LLC v. Apple Inc.</i>, 780 F.3d 1159, 1172 (Fed. Cir. 2015)). Dr. Giachetti’s above testimony is inadmissible because “a conclusory assertion with no explanation is inadequate to support a finding that there would have been a motivation to combine” because “[t]his type of finding, without more, tracks the ex post reasoning <i>KSR</i> warned of and fails to identify any actual reason why a skilled artisan would have combined the elements in the manner claimed.” <i>Id.</i> at 1359 (citing <i>In re Van Os</i>, 844 F.3d 1359, 1361–62 (Fed. Cir. 2017)). Dr. Giachetti repeatedly relies on exhibits that gap-fill aspects alleged to be necessary to form the claimed invention but that are not disclosed in the art included in the instituted grounds. To the extent Dr. Giachetti relies on such independently objectionable exhibits, his testimony is also improper under FRE 402/403 and 702, which at least includes paragraphs 151–68, (relying on EX1015, EX1021, EX1027, EX1028, EX1029, EX1030 for

	disclosure of the benefits of two stages of cyclones), 273–74 (relying on EX1019, EX1020, EX1021, EX1022 for disclosure of a moveable mount for a surface cleaning head), and 352 (relying on EX1017 for disclosure of the use and benefits of electrically powered attachments over simpler tools).
1015	402/403: Petitioner improperly uses this exhibit to gap-fill aspects alleged to be necessary to form the claimed invention but that are not disclosed in the art included in the instituted grounds. <i>Compare, e.g.</i> , EX1002, ¶¶ 151–68 and Paper 1 at 39–42 (relying on EX1015 for disclosure of the benefits of two stages of cyclones), <i>with</i> Paper 1 at 2–3 (Asserted Grounds of Unpatentability on which review was requested). 37 C.F.R. § 42.104(b).
1017	402/403: Petitioner improperly uses this exhibit to gap-fill aspects alleged to be necessary to form the claimed invention but that are not disclosed in the art included in the instituted grounds. <i>Compare, e.g.</i> , EX1002, ¶ 352 and Paper 1 at 109–110 (relying on EX1017 for disclosure of the use and benefits of electrically powered attachments over simpler tools), <i>with</i> Paper 1 at 2–3 (Asserted Grounds of Unpatentability on which review was requested). 37 C.F.R. § 42.104(b).
1019, 1020	402/403: Petitioner improperly uses this exhibit to gap-fill aspects alleged to be necessary to form the claimed invention but that are not disclosed in the art included in the instituted grounds. <i>Compare, e.g.</i> , EX1002, ¶¶ 273–74 and Paper 1 at 84–86 (relying on EX1019, EX1020 for disclosure of a moveable mount for a surface cleaning head), <i>with</i> Paper 1 at 2–3 (Asserted Grounds of Unpatentability on which review was requested). 37 C.F.R. § 42.104(b).
1021	402/403: Petitioner improperly uses this exhibit to gap-fill aspects alleged to be necessary to form the claimed invention but that are not disclosed in the art included in the instituted grounds. <i>Compare, e.g.</i> , EX1002, ¶¶ 273–74 and Paper 1 at 84–86 (relying on EX1021 for disclosure of a moveable mount for a surface cleaning head), <i>with</i> Paper 1 at 2–3 (Asserted Grounds of Unpatentability on which review was requested); and EX1002,

	¶¶ 151–68 and Paper 1 at 39–42 (relying on EX1021 for disclosure of a second cyclonic stage), <i>with</i> Paper 1 at 2–3 (Asserted Grounds of Unpatentability on which review was requested). 37 C.F.R. § 42.104(b).
1022	402/403: Petitioner improperly uses this exhibit to gap-fill aspects alleged to be necessary to form the claimed invention but that are not disclosed in the art included in the instituted grounds. <i>Compare, e.g.,</i> EX1002, ¶¶ 273–74 and Paper 1 at 84–86 (relying on EX1022 for disclosure of a moveable mount for a surface cleaning head), <i>with</i> Paper 1 at 2–3 (Asserted Grounds of Unpatentability on which review was requested). 37 C.F.R. § 42.104(b).
1023	402/403: Petitioner improperly uses this exhibit to gap-fill aspects alleged to be necessary to form the claimed invention but that are not disclosed in the art included in the instituted grounds. <i>Compare, e.g.,</i> EX1002, ¶¶ 273–74 and Paper 1 at 84–86 (relying on EX1023 for disclosure of a moveable mount for a surface cleaning head), <i>with</i> Paper 1 at 2–3 (Asserted Grounds of Unpatentability on which review was requested). 37 C.F.R. § 42.104(b).
1027	402/403: Petitioner improperly uses this exhibit to gap-fill aspects alleged to be necessary to form the claimed invention but that are not disclosed in the art included in the instituted grounds. <i>Compare, e.g.,</i> EX1002, ¶¶ 151–68 and Paper 1 at 39–42 (relying on EX1027 for disclosure of a second cyclonic stage), <i>with</i> Paper 1 at 2–3 (Asserted Grounds of Unpatentability on which review was requested). 37 C.F.R. § 42.104(b).
1028	402/403: Petitioner improperly uses this exhibit to gap-fill aspects alleged to be necessary to form the claimed invention but that are not disclosed in the art included in the instituted grounds. <i>Compare, e.g.,</i> EX1002, ¶¶ 151–68 and Paper 1 at 39–42 (relying on EX1028 for disclosure of a second cyclonic stage), <i>with</i> Paper 1 at 2–3 (Asserted Grounds of Unpatentability on which review was requested). 37 C.F.R. § 42.104(b).

1029	402/403: Petitioner improperly uses this exhibit to gap-fill aspects alleged to be necessary to form the claimed invention but that are not disclosed in the art included in the instituted grounds. <i>Compare, e.g.,</i> EX1002, ¶¶ 151–68 and Paper 1 at 39–42 (relying on EX1029 for disclosure of a second cyclonic stage), <i>with</i> Paper 1 at 2–3 (Asserted Grounds of Unpatentability on which review was requested). 37 C.F.R. § 42.104(b).
1030	402/403: Petitioner improperly uses this exhibit to gap-fill aspects alleged to be necessary to form the claimed invention but that are not disclosed in the art included in the instituted grounds. <i>Compare, e.g.,</i> EX1002, ¶¶ 151–68 and Paper 1 at 39–42 (relying on EX1030 for disclosure of a second cyclonic stage), <i>with</i> Paper 1 at 2–3 (Asserted Grounds of Unpatentability on which review was requested). 37 C.F.R. § 42.104(b).

Date: December 3, 2024

Respectfully submitted,

By: /Brian M. Buroker/

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Certificate of Service

A copy of the PATENT OWNER'S OBJECTIONS TO EVIDENCE
SUBMITTED BY PETITIONERS was served via electronic mail on the following
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