

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LUXOTTICA OF AMERICA INC.,
Petitioner,

v.

E-VISION OPTICS, LLC,
Patent Owner.

IPR2024-01030
Patent 8,708,483 B2

Before RICHARD H. MARSCHALL, JOHN D. HAMANN, and
SEAN P. O'HANLON, *Administrative Patent Judges*.

MARSCHALL, *Administrative Patent Judge*.

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

The parties have completed the permitted briefing in this proceeding and oral argument took place on October 6, 2025. *See* Paper 13 (scheduling order); Paper 29 (setting oral argument). We authorize *sua sponte* additional briefing to address issues that became apparent during oral argument as to claim 13 of US 8,708,483 B2 (“the ’483 patent,” Ex. 1001).

Claim 13 requires a “hermetically sealed” module. Ex. 1001, 11:64–65. Neither party set forth a formal claim construction for “hermetically sealed.” The Petition seems to equate a “waterproof” module in the prior art with the “hermetically sealed” requirement, but also goes on to state that “[s]omething that is hermetically sealed is sealed so as to be airtight.” Pet. 28 (citing Ex. 1002 ¶ 103; Ex. 1010, 269), 75 (taking a similar approach in the context of different prior art by arguing that a waterproof ring and protective film produce “air-tight” and waterproof arrangements that meet the “hermetically sealed” requirement). In its Response, Patent Owner argues that “a hermetically sealed module must be both airproof and waterproof.” PO Resp. 30–31 (citing Ex. 2019 ¶ 97). In its Reply, Petitioner contends that the ’483 patent “treats hermetically sealing as conventional and equivalent to waterproofing.” Pet. Reply 14–15 (citing Ex. 1001, 6:47–53, 9:15–18, 10:47–50). In its Sur-reply, Patent Owner disputes Petitioner’s characterization of the ’483 patent’s interpretation and Petitioner’s related arguments. PO Sur-reply 16–18.

At the oral hearing, Petitioner argued that “hermetically sealed” did not require a module “impervious to air” or to be “airtight.” Neither party argued for a specific construction, but Petitioner stated that if the Board is going to construe the limitation, it would want the ability to brief the issue.

We have not yet determined whether we need to formally construe “hermetically sealed” to resolve the issues as to claim 13 and determine whether the prior art discloses the limitation. We may also have sufficient argument and evidence from the parties in the record to decide the issue. Nevertheless, because we may construe “hermetically sealed” in the Final Decision, and out of an abundance of caution, we will provide the parties an opportunity to brief these issues further. More specifically, the parties may raise whatever claim construction issues in connection with the “hermetically sealed” limitation they would like the Board to consider before issuing its Final Decision in this matter. The potential constructions may include construing “hermetically sealed” as “waterproof” or “airtight,” or possibly both, and what those terms mean in the context of the ’483 patent. Relatedly, the parties may address whether the prior art discloses “hermetically sealed,” “waterproof,” or “airtight” modules, including whether the terms require something more than a module without any vents or holes, or covered with a film, and whether the module materials themselves must create the hermetic seal or whether the module may be hermetically sealed by using separate structures outside of the module.

The parties should cite to evidence in the intrinsic record of the ’483 patent, where appropriate, in support of their claim interpretation positions. The parties may also address whether the prior art discloses the “hermetically sealed” limitation in light of opposing party’s proposed construction or interpretation of the limitation. The parties may not submit any additional evidence in support of their arguments, but may cite to the existing arguments and evidence in the record.

Accordingly, it is

ORDERED that both parties may file, consistent with this Order, a Post-hearing Brief not to exceed six (6) pages in length and due no later than November 14, 2025, at 5 p.m. ET; and

FURTHER ORDERED that both parties may file, consistent with this Order, a Post-hearing Reply Brief not to exceed three (3) pages in length and due no later than November 21, 2025, at 5 p.m. ET.

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Patent 8,708,483 B2

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