

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.

Case No. IPR2024-01030

Patent No. 8,708,483

PATENT OWNER'S SUPPLEMENTAL CLAIM CONSTRUCTION BRIEF

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent and Trademark Office P.O.
Box 1450
Alexandria, VA 22313-1450

TABLE OF CONTENTS

	Page(s)
EXHIBIT LIST	iii
I. INTRODUCTION	1
II. A “HERMETICALLY SEALED” MODULE	1
III. PETITIONER’S GROUNDS DO NOT RENDER OBVIOUS AN AIRTIGHT MODULE	3
A. Grounds 2 and 3 Do Not Render Obvious Claims 13 or 32.....	4
B. Ground 8 Does Not Render Obvious Claims 13 or 32.....	6
CERTIFICATE OF SERVICE	8

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Hill-Rom Services, Inc. v. Stryker Corp.</i> , 755 F.3d 1367 (Fed. Cir. 2014)	3
<i>Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.</i> , 821 F.3d 1359 (Fed. Cir. 2016)	2
<i>Realtime Data, LLC v. Iancu</i> 912 F.3d 1368, 1375 (Fed. Cir. 2019)	2
<i>In re Robertson</i> , 169 F.3d 743 (Fed. Cir. 1999)	5
<i>Roland Corp. v. InMusic Brands, Inc.</i> , IPR2018-00335, Paper 14 (P.T.A.B. July 2, 2018)	5
<i>Rosco, Inc. v. Mirror Lite Co.</i> , 304 F.3d 1373 (Fed. Cir. 2002)	5
Other Authorities	
37 CFR § 42.23(b)	2, 5

EXHIBIT LIST

Exhibit	Description
2001	<i>eVision Optics, LLC and Vision Smart Optics, Inc. v. Luxottica Group S.P.A. and Luxottica of America Inc.</i> , Case No. 8:23-cv-02013 AB (SHK) Order Denying Defendants' Motion to Stay, Dkt. 75 (Aug. 21, 2024 C.D. Cal.)
2002	<i>eVision Optics, LLC and Vision Smart Optics, Inc. v. Luxottica Group S.P.A. and Luxottica of America Inc.</i> , Case No. 8:23-cv-02013 AB (SHK) Order Re Civil Jury/Court Trial, Dkt. 54 (April 4, 2024 C.D. Cal.)
2003	<i>eVision Optics, LLC and Vision Smart Optics, Inc. v. Luxottica Group S.P.A. and Luxottica of America Inc.</i>, Case No. 8:23-cv-02013 AB (SHK) Order Scheduling Additional Dates and Correcting Scheduling Order, Dkt. 58 (April 18, 2024 C.D. Cal.)
2004	<i>eVision Optics, LLC and Vision Smart Optics, Inc. v. Lenovo Group, Ltd., et al.</i> , Case No. 8:23-cv-01860 AB (SHK) Defendants' Preliminary Invalidity Contentions (July 19, 2024 C.D. Cal.) (excerpted)
2005	<i>eVision Optics, LLC and Vision Smart Optics, Inc. v. Luxottica Group S.P.A. and Luxottica of America Inc.</i> , Case No. 8:23-cv-02013 AB (SHK) Defendants' Invalidity Contentions (July 12, 2024 C.D. Cal.)
2006	<i>eVision Optics, LLC and e-Vision Smart Optics, Inc. v. Lenovo Group, Ltd. et al.</i> , Case No. 8:23-cv-01860-AB-SHK, Order re Civil Jury/Court Trial, Dkt. 54 (April 3, 2024 C.D. Cal.)
2007	Lex Machina – Federal Court – Federal District Court Cases in C.D. Cal, Pending Between 2019-09-01 and 2024-09-19
2008	Vacancies in the Federal Judiciary 118th Congress, last updated on 9/23/2024, https://www.uscourts.gov/judges-judgeships/judicial-vacancies/current-judicial-vacancies
2009	<i>eVision Optics, LLC and Vision Smart Optics, Inc. v. Luxottica Group S.P.A. and Luxottica of America Inc.</i> , Case No. 8:23-cv-02013 AB (SHK) Order Scheduling Additional Dates and Correcting Scheduling Order, Dkt. 58 (April 18, 2024 C.D. Cal.)

Patent Owner's Supplemental Claim Construction Brief
U.S. Patent No. 8,708,483

Exhibit	Description
2010	<i>eVision Optics, LLC and e-Vision Smart Optics, Inc. v. Lenovo Group, Ltd. et al.</i> , Case No. 8:23-cv-01860-AB-SHK, Order Granting Joint Stipulation to Schedule Additional Dates, Dkt. 56 (April 18, 2024 C.D. Cal.)
2011	U.S. Patent Application Pub. No. 2006/0023158 A1, Eyeglasses With Electrical Components, Thomas A. Howell et al., dated Feb. 2, 2006 (“Howell-158”)
2012	U.S. Patent Application Pub. No. 2005/0264752 A1, Eyewear Supporting After-Market Electrical Components, Thomas A. Howell et al., dated Dec. 1, 2005 (“Howell-752”)
2013	U.S. Patent No. 6,491,394, Method For Refracting and Dispensing Electro-Active Spectacles, Ronald D. Blum et al., dated Dec. 10, 2002 (“Blum-394”)
2014	U.S. Patent Application Pub. No. 2005/0140924 A1, Electro-Active Multi-Focal Spectacle Lens, Ronald D. Blum et al., dated June 30, 2005 (“Blum-924”)
2015	<i>eVision Optics, LLC and Vision Smart Optics, Inc. v. Luxottica Group S.P.A. and Luxottica of America Inc.</i> , Case No. 8:23-cv-02013 AB (SHK) (IN CHAMBERS) Order Continuing Claim Construction Hearing, Dkt. 97 (Oct. 7, 2024 C.D. Cal.)
2016	<i>eVision Optics, LLC and e-Vision Smart Optics, Inc. v. Lenovo Group, Ltd. et al.</i> , Case No. 8:23-cv-01860-AB-SHK, (IN CHAMBERS) Order Continuing Claim Construction Hearing, Dkt. 74 (Oct. 7, 2024 C.D. Cal.)
2017	U.S. Patent No. 7,030,411, Electronic Unit Integrated Into A Flexible Polymer Body, Peter A. Krulevitch et al. dated Apr. 18, 2006 (“Krulevitch”)
2018	<i>eVision Optics, LLC and Vision Smart Optics, Inc. v. Lenovo Group, Ltd., et al.</i> , Case No. 8:23-cv-01860 AB (SHK), Dkt. 78, Order dated Dec. 4, 2024
2019	Declaration of Professor James H. Oliver, Ph.D
2020	<i>Curriculum Vitae</i> of Professor James H. Oliver, Ph.D.
2021	Point-to-point construction, Wiki page available online at: https://en.wikipedia.org/wiki/Point-to-point_construction

Patent Owner's Supplemental Claim Construction Brief
U.S. Patent No. 8,708,483

Exhibit	Description
2022	Air tightness vs water tightness, Physics Forum webpage available online at: https://www.physicsforums.com/threads/air-tightness-vs-water-tighness.142407/#post-1161525
2023	Exclusive Media Event Marks Debut of OAKLEY THUMP, available online at: https://www.globenewswire.com/news-release/2004/11/15/318738/2175/en/Exclusive-Media-Event-Marks-Debut-of-OAKLEY-THUMP.html
2024	Oakley Thump, available online at: https://museumoffailure.com/exhibition/oakley-thump
2025	Oakley Thump review: Oakley Thump, available online at: https://www.cnet.com/reviews/oakley-thump-review/
2026	Patent Owner e-Vision Optics, LLC Demonstrative Exhibit U.S. Patent No. 8,708,483, IPR2024-01030

I. INTRODUCTION

Pursuant to the Board's November 6, 2025 request, Patent Owner e-Vision Optics LLC ("Patent Owner") submits this supplemental brief. (EX-1001, cls. 13, 32.)

At oral argument, Petitioner manufactured an alleged claim construction dispute by asserting—for the first time—that a "hermetically sealed" module need not be impervious to air. Petitioner's new argument contradicts its own petition, both parties' experts, and the intrinsic and extrinsic record. Throughout briefing, all parties agreed that a "hermetically sealed" module is sealed to be airtight.

The real dispute is about the prior art—whether an allegedly moisture-resistant or waterproof module necessarily teaches an airtight module. Record evidence confirms it does not. Petitioner's attempt to pivot away from its own prior art grounds should be disqualifying at this late stage of the proceeding. Petitioner fails to prove claims 13 or 32 of the '483 patent unpatentable.

II. A "HERMETICALLY SEALED" MODULE

Until now, Petitioner, Patent Owner, and both experts agreed that a "hermetically sealed" module is a module that has been sealed to be airtight. Petitioner quoted its expert in arguing that "hermetically sealed is sealed so as to be airtight." (Paper 1, 28 (quoting EX-1002, ¶103).) Petitioner and its expert cited an engineering dictionary defining a "hermetic seal" as "[a]n airtight seal." (EX-1010, 269.) Patent Owner and its expert agreed that the prior art does not disclose a hermetically sealed

module because it does not disclose a module with an airtight seal. (Paper 19, 30; EX-2019, ¶¶95-97 (citing EX-2022, 2, 4).) Since the parties agree as to what “hermetically sealed” means, not only is claim construction unnecessary, *Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1375 (Fed. Cir. 2019), but also Petitioner’s attempt to manufacture a controversy at this late stage should be rejected. *See* 37 CFR § 42.23(b); *Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369 (Fed. Cir. 2016).

The real dispute is a technical one that was fully briefed by the parties—whether an allegedly moisture-resistant or waterproof module is equivalent to an airtight module. (Paper 24, 14-16; Paper 25, 16-17.) It is not. The only evidence in the record that squarely addresses this issue is Dr. Oliver’s un rebutted testimony:

In addition, a POSITA would have understood that airtight provides a higher degree of protection than waterproof. For example, water vapor is a constituent of air, so a seal that is airtight would also be watertight. In addition, a POSITA at the time of the ’483 patent also understood that water molecules are larger than air molecules. (EX-2022, at 2, 4.) In other words, airtight often requires waterproof but *mere disclosure of waterproof, on the other hand, does not teach or suggest airtight.*

(EX-2019, ¶95 (cited in Paper 19, 30) (emphasis added).)

Petitioner’s cited specification language—“a substantially water-proof and wear resistant/moisture resistant environment *and is preferably hermetically sealed*”—

confirms that waterproof and hermetic seals are distinct. (*See* Paper 24, 14-15; EX-1001, 10:47-50.) If they were equivalent, the second phrase would be redundant. Petitioner also cites the specification's description of hermetically sealing a module to prevent water from contacting the electronics. (EX-1001, 6:47-53, 9:15-18.) But these disclosures are consistent with Dr. Oliver's testimony that a hermetic (or airtight) seal is a higher degree of protection that also provides a watertight seal. (Paper 19, 30; EX-2019, ¶¶95.) This does not make them equivalent because, as Dr. Oliver explains, the reverse is not true. (*Id.*) That is, a watertight seal does not provide an airtight seal.

Claim differentiation reinforces this distinction. Independent claims 1 and 19 recite "a sealed moisture-resistant module." Dependent claims 13 and 32 add "hermetically sealed." Dependent claims 15 and 34 add "water-proof." Petitioner's assertion that these terms are equivalent violates the presumption that different claim terms have different meanings. *See Hill-Rom Services, Inc. v. Stryker Corp.*, 755 F.3d 1367, 1374 (Fed. Cir. 2014). A POSITA would understand a "hermetically sealed" module is airtight and not the equivalent of a moisture-resistant or waterproof module.

III. PETITIONER'S GROUNDS DO NOT RENDER OBVIOUS AN AIRTIGHT MODULE

Claims 13 and 32 both recite a "hermetically sealed" module.

CLAIM	GROUNDS FOR CHALLENGE	
13	Ground 2	Howell-596
	Ground 8	Blum-741 + Hattori-912
32	Ground 3	Howell-596 + Howell-833

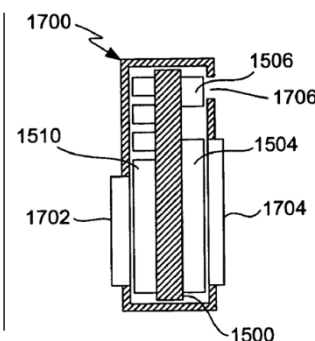
	Ground 8	Blum-741 + Hattori-912
--	----------	------------------------

A. Grounds 2 and 3 Do Not Render Obvious Claims 13 or 32

Howell-596 (Grounds 2 and 3) does not render obvious the airtight module recited in claims 13 and 32. Petitioner argues that because Howell-596 discloses a waterproof module without vents or holes, that it “discloses, or at least suggests, that the module is hermetically sealed.” (Paper 1, 28-29.) Petitioner is wrong.

First, Howell-596 discloses a module housing that is, at best, water-resistant or waterproof. (EX-1003, [0194].) Petitioner ignores Howell-596’s explicit teaching that “the module housing 1700 does not include vents or holes, *so as to be water-resistant or water-proof.*” (EX-2019, ¶¶94-95.) And, as explained above, water-resistance or waterproofing does not provide an airtight or hermetic seal. (Section III, *supra*.)

Second, Howell-596 explains that “an *opening 1706* [] is positioned proximate to the UV sensor” in housing 1700. (EX-1003, Fig. 17A, [0194].) Howell-596 teaches that “the module housing 1700 can *further include* one or more vents or holes [not illustrated] so that air can circulate through the module housing.” (*Id.* (emphasis added).) Petitioner relies on Howell-596’s suggestion that the housing might not include these *additional* “vents or holes,” but Howell-596 does not suggest eliminating “opening 1706.” And a module housing with an opening is indisputably *not* airtight.



air circulation, a POSITA would understand that, conversely, a lack of vents or holes would not only limit air circulation but also would render the module airtight. (Petition, 28-29.) Petitioner's argument defies logic and amounts to multiple layers of unsupported inherency. *See Roland Corp. v. InMusic Brands, Inc.*, IPR2018-00335, Paper 14 at 17 (P.T.A.B. July 2, 2018) (quoting *Rosco, Inc. v. Mirror Lite Co.*, 304 F.3d 1373, 1380 (Fed. Cir. 2002)) (petitioner failed to adequately support inherency). Petitioner here has not shown that a module without vents or holes is airtight. Indeed, while a homeowner might open windows to allow greater air circulation inside a house, closing windows does not make the home airtight. "Inherency...may not be established by probabilities or possibilities. The mere fact that a certain thing may result...is not sufficient." *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999).

Finally, Petitioner argued in its reply—for the first time—that it would have been obvious to hermetically seal the module. (Paper 24, 15.) The Board should disregard this argument, since it was not made in the petition. 37 CFR § 42.23(b); *Intell. Bio-Systems*, 821 F.3d at 1369. And in any event, Dr. Feland's single-sentence assertion (EX-1002, ¶103) is unsupported by sufficient rationale and directly contradicted by Dr. Oliver's testimony that a POSITA would not have been motivated to apply an unnecessary and costly seal when Howell-596 explicitly teaches water resistance or waterproofing to be sufficient. (Paper 19, 30 (citing EX-2019, ¶95).) Accordingly, Howell-596 does not render obvious a "hermetically sealed" module.

B. Ground 8 Does Not Render Obvious Claims 13 or 32

Blum-741 and Hattori-912 (Ground 8) do not render obvious an airtight module. Petitioner makes two single-sentence, alternative arguments: (1) that because Hattori-912's integrated circuit is allegedly sealed within the frame portions joined by a waterproof ring, Hattori-912 "at least suggests" the integrated circuit "may be" hermetically sealed; and (2) that a POSITA would have understood Hattori-912's "protective film" to be waterproof and further understood such film to be airtight. (Petition, 75.) Once again, Petitioner relies on layers of unsupported assumptions.

Patent Owner provides detailed arguments in its Responses as to why Ground 8 fails to render obvious even a moisture-resistant module—let alone a waterproof or airtight module. (Paper 19, 25-27; Paper 25, 10-14.) Hattori-912's waterproof ring is irrelevant where the integrated circuit (alleged module), itself, is not moisture-resistant or waterproof. (Paper 19, 26.) And Hattori-912 does not even teach that its "protective film" protects against moisture or water. Dr. Oliver explains that a film may merely protect from wear or be applied to only a portion of the integrated circuit. (*Id.*, 26-27.) Thus, even if waterproofing necessarily provided an airtight seal (which it does not), Ground 8 would not render obvious an airtight seal, because it does not render obvious a sealed moisture-resistant or waterproof module. Finally, as discussed, waterproofing a module does not provide an airtight or hermetic seal. (Section III, *supra.*)

For the above reasons, the Board should find claims 13 and 32 patentable.

Patent Owner's Supplemental Claim Construction Brief
U.S. Patent No. 8,708,483

Respectfully submitted,

KING & SPALDING LLP

By: /Brian Eutermoser/
Brian Eutermoser (Reg. No. 64,058)

Attorney for Patent Owner
e-Vision Optics, LLC

Date: November 14, 2025

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **PATENT OWNER'S SUPPLEMENTAL CLAIM CONSTRUCTION BRIEF** were served by filing this document through the Patent Trial and Appeal Case Tracking System (P-TACTS), as well as by delivering a copy via electronic mail on November 14, 2025, in their entirety on the following:

Ali S. Razai (Reg. No. 60,771)
ali.razai@morganlewis.com
Benjamin B. Anger (Reg. No. 62,207)
ben.anger@morganlewis.com
MLB-Luxottica-IPR-
483@morganlewis.com
Morgan, Lewis & Bockius LLP
600 Anton Boulevard, Suite 1800
Costa Mesa, CA 92626-7653
Phone: (714) 830-0600
Fax: (714) 830-0700

*Counsel for Petitioner
Luxottica of America Inc.*

Alexander B. Stein (Reg. No. 71,397)
alexander.stein@morganlewis.com
Jacob L. Peterson (Reg. No. 65,096)
jacob.peterson@morganlewis.com
Morgan, Lewis & Bockius LLP
1301 Second Avenue, Suite 3000
Seattle, WA 98101
Phone: (206) 274- 6400
Fax: (206) 274-6401

KING & SPALDING LLP

By: /Brian Eutermoser/
Brian Eutermoser (Reg. No. 64,058)

*Attorney for Patent Owner
e-Vision Optics, LLC*

Date: November 14, 2025