

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 RESPONSE TO PETITIONER'S POST-HEARING
BRIEF REGARDING CLAIM CONSTRUCTION**

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<i>Virtek Vision Int’l ULC v. Ass. Guidance Sys.</i> , 97 F.4th 882 (Fed. Cir. 2024)	3
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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.)

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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

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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

Petitioner's analysis of both claim scope and prior art disclosures rests on a fundamentally flawed and unsupported assumption—that because something is waterproof, it must necessarily be hermetically sealed. This is incorrect.

I. PETITIONER'S BROADENED CLAIM SCOPE IS UNSUPPORTED

Petitioner argues that because the '483 patent explains that a hermetically sealed module—like a waterproof or moisture-resistant module—may protect from water, then the claim must “also include[] waterproof seals.” (Paper 36 at 2-3.) Petitioner is wrong. As Dr. Oliver explained, “airtight provides a higher degree of protection than waterproof.” (EX-2019, ¶95; Paper 35, 2.) Because “water vapor is a constituent of air, [] a seal that is airtight would also be watertight.” (*Id.*) But “mere disclosure of waterproof, on the other hand, does not teach or suggest airtight.” (*Id.*)

For example, a waterproof raincoat keeps water out but not air. An airtight spacesuit, however, will not allow air or water to pass through. While the spacesuit provides waterproof protection, it is not the equivalent of a raincoat, and using a raincoat in space won't provide the airtight protection needed to survive.

Despite both Petitioner's and Dr. Feland's previous assertions that a hermetic seal is airtight, Petitioner tries to escape these admissions in its carefully worded brief—asserting that a hermetic seal “is sometimes equated with an airtight seal” or “encompasses airtight seals.” (Paper 36, 2.) But the '483 patent disclosures Petitioner cites do not support an interpretation of “hermetically sealed” under which waterproof

seals suffice. (Paper 35, 2-3 (addressing each disclosure).) And if a waterproof seal and hermetic seal were “functionally equivalent,” as Petitioner contends, claims 13 and 32 become identical to claims 15 and 34. (*Id.*)

Moreover, even Dr. Feland's own testimony shows he does not understand a waterproof seal to be the same as an airtight or hermetic seal. (*See* Paper 36, 3 (citing EX-1002, ¶103).) Rather than rely on Howell-596's purported disclosure of a waterproof module as evidence of a hermetic seal, Dr. Feland attempts to explain (incorrectly) why a POSITA would understand Howell-596's module to further be *airtight*. (EX-1002, ¶103.) He concludes that, due to the alleged lack of air circulation, Howell-596 “discloses, *or at least suggests*, that the module is hermetically sealed.” (*Id.* (emphasis added).) Petitioner's attempt to broaden the claim should be rejected.

II. THE PRIOR ART DOES NOT RENDER OBVIOUS CLAIMS 13 AND 32

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

First, even if Howell-596's module is waterproof, this alone does not disclose, suggest, or render obvious a hermetic or airtight seal. (§I, *supra*; Paper 25, 16-17.)

Second, Howell-596 teaches either adding vents or holes for air circulation, or not including them for a waterproof module. Neither Petitioner nor Howell-596 address whether this hypothetical module without vents/holes could be airtight with “opening 1706” in the embodiment Petitioner relies on. (EX-1003, Fig. 17A.) Such opening would still allow air flow, even if air does not necessarily circulate to another

hole/vent. (Paper 35, 4-5.) Howell-596 does not teach that lack of vents/holes results in no air circulation, much less an airtight or hermetically sealed module. As explained previously, lack of air circulation is not the same as an airtight seal. (Paper 35, 4-5.)

Third, Petitioner's new argument that hermetic seals were well-known and within a POSITA's skill is untimely and should be excluded. 37 CFR § 42.23(b); *Intell. Bio-Systems, Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369 (Fed. Cir. 2016). It is also irrelevant. (Paper 25, 17-18.) And even if it were true, Petitioner must show *why* a POSITA would have hermetically sealed the module. *Virtek Vision Int'l ULC v. Ass. Guidance Sys.*, 97 F.4th 882, 886-87 (Fed. Cir. 2024). It has not.

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

Petitioner misrepresents that "PO does not dispute that Hattori-912 discloses a waterproof module," despite the briefing's focus on this dispute. (Paper 19, 24-28, 30.)

The '483 patent teaches a module might house "components in a substantially water-proof ... environment." (EX-1001, 10:47-50.) Claims 13 and 32 could have similarly claimed mere existence within a protective environment. Instead they claim "*the module* is hermetically sealed," consistent with the patent's description of sealing the module itself. (*Id.*, 9:21-25.) Even if Hattori-912 disclosed a waterproof module (it does not), it would not disclose a hermetically sealed module. (§I, *supra*; Paper 25, 16-18.) Petitioner's new, single sentence argument that hermetic seals were well-known is improper and insufficient to support obviousness. (§II(A), *supra*.)

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Respectfully submitted,

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Date: November 21, 2025

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **PATENT OWNER'S RESPONSE TO PETITIONER'S POST-HEARING BRIEF REGARDING CLAIM CONSTRUCTION** was 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 21, 2025, in their entirety on the following:

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