

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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LUXOTTICA OF AMERICA INC.,  
Petitioner,

v.

E-VISION SMART OPTICS, INC.,  
Patent Owner.

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Case No. IPR2024-01072

U.S. Patent No. 10,598,960

**PETITIONER'S OBJECTIONS TO ALLEGED EVIDENCE SUBMITTED  
WITH RESPONSE TO PETITION**

Petitioner Luxottica of America Inc. hereby objects to the alleged evidence submitted with the Response to Petition on March 31, 2025. Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner objects to the alleged evidence on the grounds identified in the table below. These objections are timely, because they are being filed within five business days of the Response (*i.e.*, by April 7<sup>th</sup>). *See* 37 C.F.R. 42.64(b)(1).

| <b>Exhibit</b>                                                  | <b>Ground(s) for Objection</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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| Ex. 2013—<br>Luxottica’s Opening<br>Claim-Construction<br>Brief | 37 C.F.R. §§ 42.62-63: This exhibit was submitted by a non-party to this IPR proceeding.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Ex. 2014—<br>Declaration of James<br>H. Oliver, Ph.D.           | <p>37 C.F.R. §§ 42.62-63: This exhibit was submitted by a non-party to this IPR proceeding.</p> <p>F.R.E. §§ 401, 402, and 403: The paragraphs in Ex. 2014 that are not cited in the Response are irrelevant to this proceeding. <i>See, e.g.</i>, Ex. 2014 ¶¶ 1-26, 32-40, 69, 74-75, 80. Any belated attempt by Patent Owner to rely on any of these irrelevant paragraphs would likely violate at least 37 C.F.R. § 42.6(a)(3).</p> <p>F.R.E. §§ 602, 702, 703: The declarant’s testimony fails to establish that it is based on the kinds of facts or data upon which experts in the field (to the extent James H. Oliver, Ph.D., has ever been properly qualified as an expert in the relevant field) would reasonably rely, and it is based on insufficient facts and data and is unreliable. <i>See, e.g.</i>, Ex. 2014 ¶¶ 27-31, 41-68, 70-73, 76-79.</p> <p>F.R.E. § 702: Insufficient showing that the declarant “is qualified as an expert by knowledge, skill, experience, training or education.”</p> |

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|                                                                                | <p>F.R.E. §§ 703, 801, 802: Petitioner objects to the declarant's testimony to the extent it impermissibly acts as a conduit for hearsay not falling under any exception. In addition, to the extent the Response or Patent Owner relies on this exhibit for the truth of the matter asserted, Petitioner objects to this exhibit as inadmissible hearsay that does not fall under any exceptions.</p> <p>37 C.F.R. § 42.65(a): The declarant's testimony fails to disclose the underlying facts and data on which the opinion is based. <i>See, e.g.</i>, Ex. 2014 ¶¶ 27-31, 41-68, 70-73, 76-79.</p> |
| Ex. 2015—<br><i>Curriculum Vitae</i> of<br>Professor James H.<br>Oliver, Ph.D. | <p>37 C.F.R. §§ 42.62-63: This exhibit was submitted by a non-party to this IPR proceeding.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

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| Ex. 2016—TI.com website | <p>37 C.F.R. §§ 42.62-63: This exhibit was submitted by a non-party to this IPR proceeding.</p> <p>F.R.E. §§ 401, 402, 403: This exhibit is a web capture from 2025. The Response, this and the other exhibits, and Patent Owner do not demonstrate that the information in the web capture existed or applied at the '960 patent's earliest claimed priority date. The exhibit is thus irrelevant. This exhibit is additionally irrelevant because it is not cited in the Response. Even if relevant, a danger of unfair prejudice, confusing the issues, and/or wasting time substantially outweighs any probative value. Any belated attempt by Patent Owner to rely on this exhibit would likely violate at least 37 C.F.R. § 42.6(a)(3).</p> <p>F.R.E. §§ 801, 802: To the extent the Response or Patent Owner relies on this exhibit for the truth of the matter asserted, Petitioner objects to this exhibit as inadmissible hearsay that does not fall under any exceptions.</p> <p>F.R.E. § 901: This exhibit is neither authenticated nor self-authenticating.</p> |
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| <p>Ex. 2017—A Figure of Merit for Smart Phone Thermal Management</p> | <p>37 C.F.R. §§ 42.62-63: This exhibit was submitted by a non-party to this IPR proceeding.</p> <p>F.R.E. §§ 401, 402, 403: This exhibit is an article dated December 2015. The Response, this and the other exhibits, and Patent Owner do not demonstrate that the information in the article existed or applied at the '960 patent's earliest claimed priority date. The exhibit is thus irrelevant. This exhibit is additionally irrelevant because it is not cited in the Response. Even if relevant, a danger of unfair prejudice, confusing the issues, and/or wasting time substantially outweighs any probative value. Any belated attempt by Patent Owner to rely on this exhibit would likely violate at least 37 C.F.R. § 42.6(a)(3).</p> <p>F.R.E. §§ 801, 802: To the extent the Response or Patent Owner relies on this exhibit for the truth of the matter asserted, Petitioner objects to this exhibit as inadmissible hearsay that does not fall under any exceptions.</p> <p>F.R.E. § 901: This exhibit is neither authenticated nor self-authenticating.</p> |
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| <p>Ex. 2018—GSM<br/>Arena website –<br/>Samsung Galaxy</p> | <p>37 C.F.R. §§ 42.62-63: This exhibit was submitted by a non-party to this IPR proceeding.</p> <p>F.R.E. §§ 401, 402, 403: This exhibit is a web capture from 2025. The Response, this and the other exhibits, and Patent Owner do not demonstrate that the information in the web capture existed or applied at the '960 patent's earliest claimed priority date. The exhibit is thus irrelevant. Even if relevant, a danger of unfair prejudice, confusing the issues, and/or wasting time substantially outweighs any probative value. Any belated attempt by Patent Owner to rely on this exhibit would likely violate at least 37 C.F.R. § 42.6(a)(3).</p> <p>F.R.E. §§ 801, 802: To the extent the Response or Patent Owner relies on this exhibit for the truth of the matter asserted, Petitioner objects to this exhibit as inadmissible hearsay that does not fall under any exceptions.</p> <p>F.R.E. § 901: This exhibit is neither authenticated nor self-authenticating.</p> |
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| <p>Ex. 2019—GSM<br/>Arena website – Apple<br/>iPhone</p> | <p>37 C.F.R. §§ 42.62-63: This exhibit was submitted by a non-party to this IPR proceeding.</p> <p>F.R.E. §§ 401, 402, 403: This exhibit is a web capture from 2025. The Response, this and the other exhibits, and Patent Owner do not demonstrate that the information in the web capture existed or applied at the '960 patent's earliest claimed priority date. The exhibit is thus irrelevant. Even if relevant, a danger of unfair prejudice, confusing the issues, and/or wasting time substantially outweighs any probative value. Any belated attempt by Patent Owner to rely on this exhibit would likely violate at least 37 C.F.R. § 42.6(a)(3).</p> <p>F.R.E. §§ 801, 802: To the extent the Response or Patent Owner relies on this exhibit for the truth of the matter asserted, Petitioner objects to this exhibit as inadmissible hearsay that does not fall under any exceptions.</p> <p>F.R.E. § 901: This exhibit is neither authenticated nor self-authenticating.</p> |
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| <p>Ex. 2020—Gizmodo, “The Most Important Laptops of 2012”</p> | <p>37 C.F.R. §§ 42.62-63: This exhibit was submitted by a non-party to this IPR proceeding.</p> <p>F.R.E. §§ 401, 402, 403: This exhibit is a web capture from 2025. The Response, this and the other exhibits, and Patent Owner do not demonstrate that the information in the web capture existed or applied at the ’960 patent’s earliest claimed priority date. The exhibit is thus irrelevant. Even if relevant, a danger of unfair prejudice, confusing the issues, and/or wasting time substantially outweighs any probative value. Any belated attempt by Patent Owner to rely on this exhibit would likely violate at least 37 C.F.R. § 42.6(a)(3).</p> <p>F.R.E. §§ 801, 802: To the extent the Response or Patent Owner relies on this exhibit for the truth of the matter asserted, Petitioner objects to this exhibit as inadmissible hearsay that does not fall under any exceptions.</p> <p>F.R.E. § 901: This exhibit is neither authenticated nor self-authenticating.</p> |
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| <p>Ex. 2021—Dell XPS<br/>12 Specifications</p> | <p>37 C.F.R. §§ 42.62-63: This exhibit was submitted by a non-party to this IPR proceeding.</p> <p>F.R.E. §§ 401, 402, 403: This exhibit is a document dated 2013. The Response, this and the other exhibits, and Patent Owner do not demonstrate that the information in the document existed or applied at the '960 patent's earliest claimed priority date. The exhibit is thus irrelevant. Even if relevant, a danger of unfair prejudice, confusing the issues, and/or wasting time substantially outweighs any probative value. Any belated attempt by Patent Owner to rely on this exhibit would likely violate at least 37 C.F.R. § 42.6(a)(3).</p> <p>F.R.E. §§ 801, 802: To the extent the Response or Patent Owner relies on this exhibit for the truth of the matter asserted, Petitioner objects to this exhibit as inadmissible hearsay that does not fall under any exceptions.</p> <p>F.R.E. § 901: This exhibit is neither authenticated nor self-authenticating.</p> |
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| Ex. 2022—U.S. Sports Leagues Remain High On Official Data Value As Pushback Begins (indicated in the Response to instead be Opticstown.com website) | <p>37 C.F.R. §§ 42.62-63: This exhibit was submitted by a non-party to this IPR proceeding.</p> <p>F.R.E. §§ 401, 402, 403: This exhibit is a web capture from 2025. The Response, this and the other exhibits, and Patent Owner do not demonstrate that the information in the web capture existed or applied at the '960 patent's earliest claimed priority date. The exhibit is thus irrelevant. Even if relevant, a danger of unfair prejudice, confusing the issues, and/or wasting time substantially outweighs any probative value. Any belated attempt by Patent Owner to rely on this exhibit would likely violate at least 37 C.F.R. § 42.6(a)(3).</p> <p>F.R.E. §§ 801, 802: To the extent the Response or Patent Owner relies on this exhibit for the truth of the matter asserted, Petitioner objects to this exhibit as inadmissible hearsay that does not fall under any exceptions.</p> <p>F.R.E. § 901: This exhibit is neither authenticated nor self-authenticating.</p> |
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| <p>Ex. 2023—Khalil, Elias, “Application of Phase Change Materials in Textiles: A Review”</p> | <p>37 C.F.R. §§ 42.62-63: This exhibit was submitted by a non-party to this IPR proceeding.</p> <p>F.R.E. §§ 401, 402, 403: This exhibit is a document dated 2015. The Response, this and the other exhibits, and Patent Owner do not demonstrate that the information in the document existed or applied at the ’960 patent’s earliest claimed priority date. The exhibit is thus irrelevant. Even if relevant, a danger of unfair prejudice, confusing the issues, and/or wasting time substantially outweighs any probative value. Any belated attempt by Patent Owner to rely on this exhibit would likely violate at least 37 C.F.R. § 42.6(a)(3).</p> <p>F.R.E. §§ 801, 802: To the extent the Response or Patent Owner relies on this exhibit for the truth of the matter asserted, Petitioner objects to this exhibit as inadmissible hearsay that does not fall under any exceptions.</p> <p>F.R.E. § 901: This exhibit is neither authenticated nor self-authenticating.</p> |
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| <p>Ex. 2024—NASA Spinoff, Thermal Clothing</p> | <p>37 C.F.R. §§ 42.62-63: This exhibit was submitted by a non-party to this IPR proceeding.</p> <p>F.R.E. §§ 401, 402, 403: This exhibit is a web capture from 2025. The Response, this and the other exhibits, and Patent Owner do not demonstrate that the information in the web capture existed or applied at the '960 patent's earliest claimed priority date. The exhibit is thus irrelevant. Even if relevant, a danger of unfair prejudice, confusing the issues, and/or wasting time substantially outweighs any probative value. Any belated attempt by Patent Owner to rely on this exhibit would likely violate at least 37 C.F.R. § 42.6(a)(3).</p> <p>F.R.E. §§ 801, 802: To the extent the Response or Patent Owner relies on this exhibit for the truth of the matter asserted, Petitioner objects to this exhibit as inadmissible hearsay that does not fall under any exceptions.</p> <p>F.R.E. § 901: This exhibit is neither authenticated nor self-authenticating.</p> |
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| Ex. 2025—Walsh, Glyn, “The weight of spectacle frames and the area of their nose pads” | <p>37 C.F.R. §§ 42.62-63: This exhibit was submitted by a non-party to this IPR proceeding.</p> <p>F.R.E. §§ 401, 402, 403: This exhibit is a document dated 2010. The Response, this and the other exhibits, and Patent Owner do not demonstrate that the information in the document existed or applied at the ’960 patent’s earliest claimed priority date. The exhibit is thus irrelevant. Even if relevant, a danger of unfair prejudice, confusing the issues, and/or wasting time substantially outweighs any probative value. Any belated attempt by Patent Owner to rely on this exhibit would likely violate at least 37 C.F.R. § 42.6(a)(3).</p> <p>F.R.E. §§ 801, 802: To the extent the Response or Patent Owner relies on this exhibit for the truth of the matter asserted, Petitioner objects to this exhibit as inadmissible hearsay that does not fall under any exceptions.</p> <p>F.R.E. § 901: This exhibit is neither authenticated nor self-authenticating.</p> |
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Dated: April 7, 2025

Respectfully Submitted,

/ Jacob L. Peterson /

Jacob L. Peterson, Reg. No. 65,096

**CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. §§ 42.6(e)(4), I certify that on April 7, 2025, I caused to be served via email a true and correct copy of PETITIONER’S OBJECTIONS TO ALLEGED EVIDENCE SUBMITTED WITH RESPONSE TO PETITION on Patent Owner’s counsel of record:

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Respectfully Submitted,

Dated: April 7, 2025

/ Jacob L. Peterson /  
Jacob L. Peterson (Reg. No. 65,096)