

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG DISPLAY CO., LTD.,
Petitioner,

v.

PICTIVA DISPLAYS INTERNATIONAL LTD.,
Patent Owner.

Case No. IPR2024-01094
Patent No. 8,558,223 B2

OPPOSITION TO PETITIONER'S MOTION TO STRIKE

I. The Board Should Not Strike Any Portion of the Brief

Striking “a portion of a party’s brief is an exceptional remedy that the Board expects will be granted rarely.” CTPG at 80. Here, the evidence is in response to the new arguments raised in the Reply, EX2057 and EX2106 did not exist at the time of the POR, and the Sur-reply largely cites to Dr. Schanze’s testimony (EX1021) or Dr. Rand’s testimony (EX2056) when discussing EX2105-2106. Nor does Petitioner claim to have suffered any prejudice. Given these facts, the Board should not strike any portion of the brief. *Casper Sleep Inc. v. Werner Media Partners, LLC*, IPR2024-00474, Paper 48 at 7 (PTAB Jan. 13, 2025) (denying Petitioner’s motion to strike portions of Patent Owner’s Sur-reply based on new exhibits).

II. The Board Should Enforce Rule 42.51(b)(1)(iii) to Ensure that It Has Full Facts When Drafting Final Written Decision

EX2106 is the deposition transcript of Dr. Kymissis, the RPI’s technical expert in the district court. In this IPR, Petitioner takes the position that Ma’s “co-deposition” process discloses joint vaporization of a metal complex and an organic material. Pet., 59; Reply, 21-22. Dr. Kymissis also relied on Ma in the district court and discussed the reference at his deposition. *See* EX2106, 5:18-23 (Ma is Ex. 19), 153:22-154:20 (discussing Ex. 19). Dr. Kymissis testified that while Ma had some discussion on deposition, he “can’t say whether or not it represents joint vaporization.” *Id.*, 154:3-7. Dr. Kymissis also testified that whether joint vaporization occurred depended on several factors. *Id.*, 154:8-20; *see also id.*, 78:20-

25, 81:22-83:17, 103:12-16. That Dr. Kymissis could not conclude Ma discloses joint vaporization is inconsistent with Petitioner's position that equated Ma's co-deposition with joint vaporization, without analyzing the factors mentioned by Dr. Kymissis. Reply, 21-22; Pet., 59.

Petitioner had EX2106 when filing the Reply because it was used at Dr. Schanze's deposition. *See* EX1021, 6:8-9, 168:21-24. Petitioner excuses its withholding of the inconsistent testimony by asserting that Rule 42.51(b)(1)(iii) only requires service and not filing of the inconsistent testimony. Mot., 2. But Petitioner never even served the transcript on Patent Owner, who has the transcript only because it is a party in the other proceeding. The Board should not endorse such gamesmanship and should waive Rule 42.23(b), if necessary, to deter gamesmanship by Petitioner and to ensure that it has all relevant facts when making its final written decision. 37 C.F.R. § 42.5(b); *Inergy Tech., Inc. v. Force MOS Tech. Co., Ltd.*, IPR2024-00094, Paper 41 at 3 (PTAB Sept. 17, 2025) (requesting information on "the similarities and differences between the arguments and evidence presented in the district court and the arguments and evidence presented in this proceeding").

Likewise, the Board should not strike **EX2057** because Dr. Holmes' testimony that he, as an expert, cannot determine the conductivity of Ma from Figure 5 is inconsistent with the relied-on Reply expert declaration that asserts a quantitative determination is possible from Figure 5. Reply, 9; EX1020, ¶12, n.3.

III. Rule 42.23(b) Does Not Preclude Submission of Deposition Exhibits

The Board has repeatedly permitted “exhibits used during cross-examination to be submitted” for at least the “purpose of allowing the Board to understand the context of the cross-examination.” *Edwards Lifesciences Corp. v. Cardiovalve Ltd.*, IPR2021-00383, Paper 60 at 87 (PTAB July 18, 2022); *see also Ascend Performance Materials Ops. LLC, v. Samsung SDI Co., Ltd.*, IPR2020-00349, Paper 53 at 12 (PTAB July 15, 2021) (vacated on other grounds) (“[I]f exhibits are introduced during a deposition for the purposes of testing the witness’ testimony, a party should be able to submit those exhibits with the transcript, so the Board has the full context available in order to evaluate the testimony.”). Petitioner’s expert, Dr. Rand, also testified that he needed “context” to understand Dr. Kymissis’s testimony, though he chose not to review the transcript. EX2056, 70:11-71:11, 152:15-153:22. Patent Owner has therefore properly submitted EX2105 and EX2106 both as separate exhibits and as part of EX2056 and EX2058 (which, contrary to Petitioner’s assertion, includes EX2105 & EX2106 on PDF pp. 93-100 & 101-334 respectively).

IV. The Board Did Not Authorize a Motion to Strike Any Part of EX2056

Petitioner’s email to the Board for IPR2024-01094 did not mention EX2056. *See* EX3003, 2. The Board’s authorization of “the requested motion to strike” therefore does not extend to any part of EX2056. *Id.*, 1. Thus, Petitioner’s request to strike portions of EX2056 should be stricken and denied as being unauthorized.

Dated: October 5, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify, pursuant to 37 C.F.R. § 42.6, that on October 5, 2025, a complete copy of the foregoing document, **OPPOSITION TO PETITIONER'S MOTION TO STRIKE**, was served by ELECTRONIC MAIL, as agreed to by the parties, upon the following:

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