

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 IPR2024-01095  
Patent No. 11,828,425

**PETITIONER'S MOTION TO STRIKE**

Pursuant to 37 C.F.R. §§ 42.5(a), 42.7(a), 42.20(a), and Board authorization, Petitioner moves to strike a document that Patent Owner submitted as Exhibit 1 to Exhibit 2032 (appearing in Exhibit 2032, pages 332-646), and portions of Patent Owner’s Sur-reply that rely on this exhibit (Paper 35 at 14, lines 17-19), as barred by the Board’s rule prohibiting the introduction of new exhibits (37 C.F.R. § 42.23(b)) with a sur-reply. Petitioner also moves to strike images included on page 2 of the sur-reply (Paper 35 at 2) and portions of the sur-reply relying on them (Paper 35 at 1, lines 11-12), which are prohibited by Rule 42.23(b) and 37 C.F.R. § 42.63(a) (“All evidence must be filed in the form of an exhibit.”).

“A sur-reply . . . may not be accompanied by new evidence other than deposition transcripts of the cross-examination of any reply witness.” 37 C.F.R. § 42.23(b). This rule imposes a “prohibition on submitting new evidence with a Sur-reply,” absent Board authorization. *Resi Media LLC v. BoxCast Inc.*, IPR2022-00067, Paper 56 at 48-49 (PTAB Apr. 12, 2023). In contradiction of this rule, and without seeking Board authorization (despite advising Petitioner that it would do so), Patent Owner filed improper new evidentiary materials with its sur-reply.

Patent Owner asserts that it filed these materials (1) “for completeness”; (2) because “Petitioner should have submitted them under 37 C.F.R. § 42.51(b)(1)(iii)” because they allegedly include “inconsistent positions that Petitioner or its RPI has taken in other proceedings”; and (3) under “the spirit and

letter of the recently issued General Order [Paper 37].” Ex. 3004. All of these justifications lack merit. *First*, Rule 42.23(b)’s prohibition on exhibits does not (and should not) include a “for completeness” exception. *Second*, the statements are not inconsistent, and, in any event, Rule 42.51(b)(1)(iii) requires service, not filing, of inconsistent statements. Patent Owner certainly received the documents; it filed them. *Finally*, the General Order addresses the filing of developments in “adjudication,” not positions taken by other experts. Paper 37.

**Exhibit 1 to Exhibit 2032** is not “cross-examination” of any witness in this IPR. It is a deposition transcript of a different witness (Dr. Katona) for a different party in a district court case. Dr. Katona has not offered any opinions in this IPR. Dr. Holmes testified that he was not involved in that case, Ex.2032, 91:25-92:2, and that he “was not aware” that Dr. Katona was an expert in that case, “did not talk to him regarding his opinion” there, and “did not read his deposition transcript,” *id.*, 87:5-20. Patent Owner nevertheless sought to question Dr. Holmes about Dr. Katona’s opinion, over Petitioner’s objection. *See generally id.*, 89:3-97:24.<sup>1</sup> Without seeking authorization from the Board, Patent Owner improperly

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<sup>1</sup> Notably, Patent Owner considers attempts to manufacture inconsistent statements by experts in other proceedings to be inappropriate. *See* IPR2024-01093 Ex.1043, 76:5-21 (“Ms. Zhong: Counsel, are you trying to get testimony for the 223 IPR? That is inappropriate and it is outside the scope. . . .”) (cleaned up).

filed Dr. Katona's transcript "*sub silentio*." *Resi Media*, IPR2022-00067, Paper 56 at 49. It was filed not as a separate exhibit (as for all other deposition exhibits Patent Owner has filed in this and the related IPRs), but by appending it to Dr. Holmes' transcript and filing both transcripts together, as though Dr. Katona's transcript were part of Dr. Holmes' testimony. Ex.2032. Patent Owner even misleadingly identifies Ex.2032 as the "Holmes Deposition Transcript" in its exhibit list. Paper 35 at v. Exhibit 2032, pages 332-646 should be stricken.

In any event, Dr. Holmes' testimony is not "inconsistent" with Dr. Katona's. Dr. Holmes testified that Liq "can be used as an n-dopant" and that it could also be used in cases where it "wouldn't be an n-dopant." Ex.2032, 99:4-16. The Katona transcript is also unnecessary to provide "completeness" to Dr. Holmes' testimony; Dr. Holmes testified he never saw it and that he "can't offer an opinion just based on" the portion of the transcript Patent Owner flagged for him. *Id.*, 98:2-9.

**Images on page 2 of the sur-reply:** Page 2 of the sur-reply includes two images that appear to be screen shots. One appears to be from a web page and the other is of unknown origin. Paper 35 at 2. Patent Owner attempts to use these images as evidence about the publication of Ex.1042. *See id.* at 1, lines 11-12. Patent Owner did not submit this alleged evidence as an exhibit as Rule 42.63(a) requires, and it does not qualify as proper new evidence with a sur-reply under Rule 42.23(b). Page 2 and lines 11-12 of page 1 of the sur-reply should be stricken.

Dated: September 30, 2025

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. § 42.6, I hereby certify that the foregoing Petitioner's Motion to Strike was served by electronic mail on the following counsel of record for patent owner:

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Date: September 30, 2025

/ Scott C. Weidenfeller /  
Scott C. Weidenfeller (Reg. No. 54,531)