UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARASHI VISION (U.S.) LLC (D/B/A INSTA360),
Petitioner,

v.

GOPRO, INC.,
Patent Owner.

Patent No. 10,958,840

Inter Partes Review No. IPR2024-01165

PETITIONER'S OBJECTION TO EVIDENCE SUBMITTED WITH PATENT OWNER'S PRELIMINARY RESPONSE

Petitioner Arashi Vision (U.S.) LLC (d/b/a Insta360) ("Petitioner") hereby objects to the following evidence that was submitted by Patent Owner Go Pro, Inc. ("Patent Owner" or "GoPro") with the Patent Owner's Preliminary Response (Paper 8, "POPR") in the above-captioned proceeding. In accordance with 37 C.F.R. § 42.64(b)(1), Petitioner timely filed and served these objections within ten (10) business days of the institution of the trial by the Patent and Trial Appeal Board ("Board"), which is reflected in the Board's Decision on Institution dated January 22, 2025 (Paper 11).

A. Exhibit 2001 (Declaration of Hassan Foroosh, Ph.D.)

Petitioner objects to Exhibit 2001 as irrelevant, lacking foundation, assuming facts not in evidence, calling for legal conclusion, and mischaracterizing evidence. Petitioner further objects to this exhibit to the extent that it includes expert opinions for which the factual bases have not been disclosed, for which Dr. Foroosh does not have personal knowledge (Fed. R. Evid. (FRE) 602), and to the extent that Dr. Foroosh's opinions constitute unreliable expert testimony under FRE 702 and 703.

Petitioner objects to the portions of this exhibit not discussed or cited in the POPR, as not being relevant to any issue on which trial has been instituted. Additionally, if the objected to material was not discussed or cited in the POPR, Petitioner has had no fair opportunity to respond to Patent Owner's unstated

contentions (if any) regarding the same. Such information is irrelevant, and its consideration would be unfairly prejudicial to Petitioner. In particular, at least paragraphs 1-16, 22-33, 84, 85 of this exhibit were not cited or discussed in the POPR. Accordingly, at least those paragraphs of Exhibit 2001 are objected to as not being relevant to any issue in this proceeding

B. Exhibit 2003 ("GoPro Celebrates Surpassing 50 Million Cameras Sold")

Petitioner objects to Exhibit 2003 as being irrelevant and/or unduly prejudicial under FRE 401-403. For example, Exhibit 2003 discusses GoPro's sales since 2009, which predates the effective filing date of September 19, 2018. Petitioner objects to this exhibit as lacking foundation and lacking authentication under FRE 901. Petitioner objects to this exhibit as containing hearsay to the extent that Patent Owner attempts to rely on it to prove the truth of any matter described therein under FRE 801 and FRE 802. For example, Patent Owner fails to offer any evidence that this exhibit is what Patent Owner claims it to be.

Petitioner objects to the portion of this exhibit not discussed or cited in the POPR, as not being relevant to any issue in this proceeding. If the objected to material was not discussed or cited in the POPR, Petitioner has had no fair opportunity to respond to Patent Owner's unstated contentions (if any) regarding the same. Such information is irrelevant, and its consideration would be unfairly prejudicial to Petitioner. In particular, at least page 2 was not discussed or cited in

the POPR. Accordingly, at least that page of Exhibit 2003 is objected to as not being relevant to any issue in this proceeding.

C. Exhibit 2004 (Financial Document)

Petitioner objects to Exhibit 2004 as being irrelevant and/or unduly prejudicial under FRE 401-403. For example, even though GoPro admits that HERO7 "introduced HyperSmooth," Exhibit 2004 contains purported financial information regarding other models. Petitioner objects to this exhibit as lacking foundation and lacking authentication under FRE 901. Petitioner objects to this exhibit as containing hearsay to the extent that Patent Owner attempts to rely on it to prove the truth of any matter described therein under FRE 801 and FRE 802. For example, Patent Owner fails to offer any evidence that this exhibit is what Patent Owner claims it to be.

Petitioner objects to the portion of this exhibit not discussed or cited in the POPR, as not being relevant to any issue in this proceeding. If the objected to material was not discussed or cited in the POPR, Petitioner has had no fair opportunity to respond to Patent Owner's unstated contentions (if any) regarding the same. Such information is irrelevant, and its consideration would be unfairly prejudicial to Petitioner. In particular, most portions of Exhibit 2004, including financial information about various camera models, were not discussed or cited in

the POPR. Accordingly, at least those portions of Exhibit 2004 are objected to as not being relevant to any issue in this proceeding.

D. Exhibit 2005 ("NHL, NHLPA Partner with GoPro To Deliver Hockey Fans Unique Perspectives Of The Game")

Petitioner objects to Exhibit 2005 as being irrelevant and/or unduly prejudicial under FRE 401-403. For example, Exhibit 2005 makes no mention of video stabilization or HyperSmooth, the technology that purportedly practices the claimed inventions. Petitioner objects to this exhibit as lacking foundation and lacking authentication under FRE 901. Petitioner objects to this exhibit as containing hearsay to the extent that Patent Owner attempts to rely on it to prove the truth of any matter described therein under FRE 801 and FRE 802. For example, Patent Owner fails to offer any evidence that this exhibit is what Patent Owner claims it to be.

Petitioner objects to the portion of this exhibit not discussed or cited in the POPR, as not being relevant to any issue in this proceeding. If the objected to material was not discussed or cited in the POPR, Petitioner has had no fair opportunity to respond to Patent Owner's unstated contentions (if any) regarding the same. Such information is irrelevant, and its consideration would be unfairly prejudicial to Petitioner. In particular, most portions of Exhibit 2005, except the quoted sentence from Exhibit 2005 in the POPR, were not discussed or cited in the

POPR. Accordingly, at least those portions of Exhibit 2005 are objected to as not being relevant to any issue in this proceeding.

E. Exhibit 2006 (Complaint, *In the Matter of Certain Cameras, Camera Systems, and Accessories Used Therewith*, Inv. No. 337-TA-1400)

Petitioner objects to the portions of Exhibit 2006 not discussed or cited in the POPR, as not being relevant to any issue in this proceeding. If the objected to material was not discussed or cited in the POPR, Petitioner has had no fair opportunity to respond to Patent Owner's unstated contentions (if any) regarding the same. Such information is irrelevant, and its consideration would be unfairly prejudicial to Petitioner. In particular, pages 1-23 and 26-44 were not discussed in the POPR. Accordingly, at least those pages are objected to as not being relevant to any issue in this proceeding.

F. Exhibit 2008 ("GoPro Named Exclusive Action Camera of Red Bull Rampage")

Petitioner objects to Exhibit 2008 as being irrelevant and/or unduly prejudicial under FRE 401-403. Petitioner objects to this exhibit as lacking foundation and lacking authentication under FRE 901. Petitioner objects to this exhibit as containing hearsay to the extent that Patent Owner attempts to rely on it to prove the truth of any matter described therein under FRE 801 and FRE 802. For example, Patent Owner fails to offer any evidence that this exhibit is what Patent Owner claims it to be.

Petitioner objects to the portion of this exhibit not discussed or cited in the POPR, as not being relevant to any issue in this proceeding. If the objected to material was not discussed or cited in the POPR, Petitioner has had no fair opportunity to respond to Patent Owner's unstated contentions (if any) regarding the same. Such information is irrelevant, and its consideration would be unfairly prejudicial to Petitioner. In particular, most portions of Exhibit 2008, except the quoted language from Exhibit 2008 in the POPR, were not discussed or cited in the POPR. Accordingly, at least those portions of Exhibit 2008 are objected to as not being relevant to any issue in this proceeding.

G. Exhibit 2009 ("GoPro and Adobe Collaborate to Bring Unique Content to Adobe Stock Users")

Petitioner objects to Exhibit 2009 as being irrelevant and/or unduly prejudicial under FRE 401-403. For example, Exhibit 2009 makes no mention of video stabilization or the purported practicing technology, HyperSmooth. Petitioner objects to this exhibit as lacking foundation and lacking authentication under FRE 901. Petitioner objects to this exhibit as containing hearsay to the extent that Patent Owner attempts to rely on it to prove the truth of any matter described therein under FRE 801 and FRE 802. For example, Patent Owner fails to offer any evidence that this exhibit is what Patent Owner claims it to be.

Petitioner objects to the portion of this exhibit not discussed or cited in the POPR, as not being relevant to any issue in this proceeding. If the objected to

material was not discussed or cited in the POPR, Petitioner has had no fair opportunity to respond to Patent Owner's unstated contentions (if any) regarding the same. Such information is irrelevant, and its consideration would be unfairly prejudicial to Petitioner. In particular, most portions of Exhibit 2009, except the quoted sentence from Exhibit 2009 in the POPR, were not discussed or cited in the POPR. Accordingly, at least those portions of Exhibit 2009 are objected to as not being relevant to any issue in this proceeding.

H. Exhibit 2010 ("73rd Annual Technology & Engineering Emmys")

Petitioner objects to Exhibit 2010 as being irrelevant and/or unduly prejudicial under FRE 401-403. For example, Exhibit 2010 discusses an "action camera EIS technology in 2015," which predates the effective filing date of September 19, 2018. Petitioner objects to this exhibit as lacking foundation and lacking authentication under FRE 901. Petitioner objects to this exhibit as containing hearsay to the extent that Patent Owner attempts to rely on it to prove the truth of any matter described therein under FRE 801 and FRE 802. For example, Patent Owner fails to offer any evidence that this exhibit is what Patent Owner claims it to be.

Petitioner objects to the portion of this exhibit not discussed or cited in the POPR, as not being relevant to any issue in this proceeding. If the objected to material was not discussed or cited in the POPR, Petitioner has had no fair

opportunity to respond to Patent Owner's unstated contentions (if any) regarding the same. Such information is irrelevant, and its consideration would be unfairly prejudicial to Petitioner. In particular, most portions of Exhibit 2010, except the quoted language from Exhibit 2010 in the POPR, were not discussed or cited in the POPR. Accordingly, at least those portions of Exhibit 2010 are objected to as not being relevant to any issue in this proceeding.

I. Exhibit 2011 ("Believe the Hype: GoPro Showcases Award-Winning HERO7 Cameras at CES 2019")

Petitioner objects to Exhibit 2011 as being irrelevant and/or unduly prejudicial under FRE 401-403. Petitioner objects to this exhibit as lacking foundation and lacking authentication under FRE 901. Petitioner objects to this exhibit as containing hearsay to the extent that Patent Owner attempts to rely on it to prove the truth of any matter described therein under FRE 801 and FRE 802. For example, Patent Owner fails to offer any evidence that this exhibit is what Patent Owner claims it to be.

Petitioner objects to the portion of this exhibit not discussed or cited in the POPR, as not being relevant to any issue in this proceeding. If the objected to material was not discussed or cited in the POPR, Petitioner has had no fair opportunity to respond to Patent Owner's unstated contentions (if any) regarding the same. Such information is irrelevant, and its consideration would be unfairly prejudicial to Petitioner. In particular, most portions of Exhibit 2011, except the

quoted language from Exhibit 2011 in the POPR, were not discussed or cited in the POPR. Accordingly, at least those portions of Exhibit 2011 are objected to as not being relevant to any issue in this proceeding.

J. Exhibit 2012 ("GoPro Wins Second Emmy® Award for Groundbreaking Digital Imaging Technology")

Petitioner objects to Exhibit 2012 as being irrelevant and/or unduly prejudicial under FRE 401-403. Petitioner objects to this exhibit as lacking foundation and lacking authentication under FRE 901. Petitioner objects to this exhibit as containing hearsay to the extent that Patent Owner attempts to rely on it to prove the truth of any matter described therein under FRE 801 and FRE 802. For example, Patent Owner fails to offer any evidence that this exhibit is what Patent Owner claims it to be.

Petitioner objects to the portion of this exhibit not discussed or cited in the POPR, as not being relevant to any issue in this proceeding. If the objected to material was not discussed or cited in the POPR, Petitioner has had no fair opportunity to respond to Patent Owner's unstated contentions (if any) regarding the same. Such information is irrelevant, and its consideration would be unfairly prejudicial to Petitioner. In particular, most portions of Exhibit 2012, except the quoted language from Exhibit 2012 in the POPR, were not discussed or cited in the POPR. Accordingly, at least those portions of Exhibit 2012 are objected to as not being relevant to any issue in this proceeding.

K. Exhibit 2013 ("J.P. Morgan – North America Equity Research (21 September 2018)

Petitioner objects to Exhibit 2013 as being irrelevant and/or unduly prejudicial under FRE 401-403. Petitioner objects to this exhibit as lacking foundation and lacking authentication under FRE 901. Petitioner objects to this exhibit as containing hearsay to the extent that Patent Owner attempts to rely on it to prove the truth of any matter described therein under FRE 801 and FRE 802. For example, Patent Owner fails to offer any evidence that this exhibit is what Patent Owner claims it to be.

Petitioner objects to the portion of this exhibit not discussed or cited in the POPR, as not being relevant to any issue in this proceeding. If the objected to material was not discussed or cited in the POPR, Petitioner has had no fair opportunity to respond to Patent Owner's unstated contentions (if any) regarding the same. Such information is irrelevant, and its consideration would be unfairly prejudicial to Petitioner. In particular, at least pages 2-5 were not discussed or cited in the POPR. Accordingly, at least pages are objected to as not being relevant to any issue in this proceeding.

L. Exhibit 2014 ("GoPro Hero 9 Black vs Hero 8 Black: 9 key differences you need to know)

Petitioner objects to Exhibit 2014 as being irrelevant and/or unduly prejudicial under FRE 401-403. Petitioner objects to this exhibit as lacking

foundation and lacking authentication under FRE 901. Petitioner objects to this exhibit as containing hearsay to the extent that Patent Owner attempts to rely on it to prove the truth of any matter described therein under FRE 801 and FRE 802. For example, Patent Owner fails to offer any evidence that this exhibit is what Patent Owner claims it to be.

Petitioner objects to the portion of this exhibit not discussed or cited in the POPR, as not being relevant to any issue in this proceeding. If the objected to material was not discussed or cited in the POPR, Petitioner has had no fair opportunity to respond to Patent Owner's unstated contentions (if any) regarding the same. Such information is irrelevant, and its consideration would be unfairly prejudicial to Petitioner. In particular, at least pages 1-4 and 6 were not discussed or cited in the POPR. Accordingly, at least those pages are objected to as not being relevant to any issue in this proceeding.

M. Exhibit 2015 (Transcript Document)

Petitioner objects to Exhibit 2015 as being irrelevant and/or unduly prejudicial under FRE 401-403. Petitioner objects to this exhibit as lacking foundation and lacking authentication under FRE 901. Petitioner objects to this exhibit as containing hearsay to the extent that Patent Owner attempts to rely on it to prove the truth of any matter described therein under FRE 801 and FRE 802.

For example, Patent Owner fails to offer any evidence that this exhibit is what Patent Owner claims it to be.

Petitioner objects to the portion of this exhibit not discussed or cited in the POPR, as not being relevant to any issue in this proceeding. If the objected to material was not discussed or cited in the POPR, Petitioner has had no fair opportunity to respond to Patent Owner's unstated contentions (if any) regarding the same. Such information is irrelevant, and its consideration would be unfairly prejudicial to Petitioner. In particular, most portions of Exhibit 2015, except the quoted language from Exhibit 2015 in the POPR, were not discussed or cited in the POPR. Accordingly, at least those portions of Exhibit 2015 are objected to as not being relevant to any issue in this proceeding.

N. Exhibit 2016 (Claim Chart Document)

Petitioner objects to Exhibit 2016 as being irrelevant and/or unduly prejudicial under FRE 401-403. For example, Petitioner agrees with the Board that Patent Owner "improperly incorporates by reference a claim chart (Exhibit 2016) served in the related ITC proceeding" and that Exhibit 2016 "appears to admit that claim 1 does not read on Patent Owner's technology." (Paper 11, 16-17.) Petitioner objects to this exhibit as lacking foundation and lacking authentication under FRE 901. Petitioner objects to this exhibit as containing hearsay to the extent that Patent Owner attempts to rely on it to prove the truth of any matter

described therein under FRE 801 and FRE 802. For example, Patent Owner fails to offer any evidence that this exhibit is what Patent Owner claims it to be.

Petitioner objects to the portion of this exhibit not discussed or cited in the POPR, as not being relevant to any issue in this proceeding. If the objected to material was not discussed or cited in the POPR, Petitioner has had no fair opportunity to respond to Patent Owner's unstated contentions (if any) regarding the same. Such information is irrelevant, and its consideration would be unfairly prejudicial to Petitioner. In particular, Petitioner agrees with the Board that Patent Owner "improperly incorporates by reference" Exhibit 2016 but does not cite or discuss any specific content within Exhibit 2016. Accordingly, the entirety of Exhibit 2016 is objected to as not being relevant to any issue in this proceeding.

Dated: February 5, 2025

Respectfully submitted,

By: */Alex S. Yap/*

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Certificate of Service (37 C.F.R. § 42.6(e)(4))

I hereby certify that the attached **PETITIONER'S OBJECTION TO EVIDENCE SUBMITTED WITH PATENT OWNER'S PRELIMINARY RESPONSE** was served as of the below date on the Patent Owner via e-mail (by agreement) to the following counsel of record:

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Dated: February 5, 2025 *<u>/Alex S. Yap/</u>*
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