UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DYSON TECHNOLOGY LIMITED AND DYSON, INC.,
Petitioners,

v.

OMACHRON INTELLECTUAL PROPERTY INC.,
Patent Owner.

Case No. IPR2024-01233

U.S. PATENT NO. 9,301,666

PETITIONERS' REPLY TO PATENT OWNER'S PRELIMINARY RESPONSE

Petitioners seek to cancel all challenged claims based on a ground that combines Schmidt and Lidell, and PO's only dispute in its POPR is that a POSA would not have combined these references. Paper No. 7 at 11–28. However, in *Dyson, Inc., et al. v. SharkNinja, Inc., et al.*, No. 2:24-cv-386 (E.D. Tex.), PO served invalidity contentions asserting that one of Petitioners' patents is invalid over the combination of Schmidt + Lidell, that a POSA ***would*** have combined these references, and that even "incorporate by reference [Dyson's] arguments" from its Petition. Ex1033 at 89-91; Paper No. 2 at 4, 21–83. Although PO makes its arguments contingent, "to the extent [Petitioners] continue to pursue th[e] combination[] in IPR," and "disagrees" with its own statements, its reservations are irrelevant. Dyson is not dropping its IPR. And whether PO "disagrees" with its statement is of no moment; what matters is that it alleges that a POSA would have combined Schmidt and Lidell. Further, PO (and its expert) fully intend to tell the Texas judge and jury that a POSA would have done the same, and without reservation, because as Texas court has found, "an expert may not offer an opinion she believes to be incorrect or unreliable." *Genband US LLC v. Metaswitch Networks Corp.*, No. 2:14-cv-33-JRG-RSP, 2015 WL 12911530, at *3 (E.D. Tex. Sept. 30, 2015). PO alleges in its contentions and intends to tell the judge and jury in Texas that a POSA would have combined Schmidt and Lidell. The Board should reject PO's arguments to the contrary in its POPR and institute Petitioners' Petition.

Date: December 17, 2024

Respectfully submitted,

/s/ Matthew B. Hershkowitz

Christian Huehns (Reg. No. 77,717)
Bryan S. Hales, P.C. (*pro hac* forthcoming)
Jay Emerick (*pro hac* forthcoming)
KIRKLAND & ELLIS LLP
333 West Wolf Point Plaza
Chicago, IL 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200
christian.huehns@kirkland.com
bhales@kirkland.com
jay.emerick@kirkland.com
DysonIPR@kirkland.com

Matthew B. Hershkowitz (Reg. No. 77,881)
KIRKLAND & ELLIS LLP
601 Lexington Ave.
New York, NY 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

Attorneys for Petitioner

LIST OF EXHIBITS

Exhibit No.	Description
Ex1001	U.S. Patent No. 9,301,666 ("'666Patent")
Ex1002	Declaration of Robert Giachetti
Ex1003	*Curriculum Vitae* of Robert Giachetti
Ex1004	File History of U.S. 9,301,666 (App. No. US14/489,646)
Ex1005	U. K. Patent Application GB2399780A to Liddell ("Liddell")
Ex1006	U.S. Patent No. 7,770,256 to Fester ("Fester256")
Ex1007	Certified English Translation of German Patent 357279C to Schmidt ("Schmidt")
Ex1008	U.S. Patent Publication No. US2005/0198770 to Jung ("Jung")
Ex1009	U.S. Patent No. 7,547,336 to Fester ("Fester336")
Ex1010	U.S. Provisional Patent Application No. 60/593,125 ("Fester336 Provisional")
Ex1011	U. K. Patent Application GB194963A to Lehmann ("Lehmann")
Ex1012	U.S. Provisional Patent Application No. 60/521,466 ("Fester256 Provisional")
Ex1013	U.S. Patent No. 5,504,412 to Chan ("Chan")
Ex1014	Certified English Translation of Spanish Patent No. ES43816 to Dayer ("Dayer")
Ex1015	Spanish Patent No. ES43816 to Dayer ("DayerES")
Ex1016	U.K. Patent Application No. GB2035787 to Merritt ("Merritt")
Ex1017	U.K. Patent Application No. GB2372434A ("Organ")

Exhibit No.	Description
Ex1018	Certified English Translation of French Patent No. 1,094,603 to Martelliere ("Martelliere")
Ex1019	Exhibit H-1 to PO's Infringement Contentions
Ex1020	PO's Opening *Markman* Brief in *SharkNinja Operating LLC v. Dyson, Inc.*, No. 1:23-cv-12372 (D. Mass.) (Dkt. 122)
Ex1021	German Patent 357279C to Schmidt ("DESchmidt")
Ex1022	French Patent No. 1,094,603 to Martelliere ("MartelliereFR")
Ex1023	National Judicial Caseload Profile https://www.uscourts.gov/sites/default/files/data_tables/fcms_na_distprofile1231.2023.pdf
Ex1024	The Parties' Revised Proposed Schedule in *SharkNinja Operating LLC v. Dyson, Inc.*, No. 1:23-cv-12372 (D. Mass.)
Ex1025	Plaintiffs' Infringement Contentions in SharkNinja Operating LLC v. Dyson, Inc., No. 1:23-cv-12372 (D. Mass.)
Ex1026	Petitioners' Stipulation
Ex1027	Certified English Translation of Japanese Patent Publication No. JPS48107459U to Tsukuji ("Tsukuji")
Ex1028	Japanese Patent Publication No. JPS48107459U to Tsukuji ("TsukujiJP")
Ex1029	U.S. Patent No. 1,861,261 to Carson ("Carson")
Ex1030	U.S. Patent No. 3,425,192 to Davis ("Davis")
Ex1031	Certified English translation of Swiss Patent No. CH203,675 to Peter ("Peter")
Ex1032	Swiss Patent No. CH203,675 to Peter ("PeterCH")
Ex1033	Defendants' P.R. 3-3 Invalidity Contentions, *Dyson, Inc. v. SharkNinja, Inc.*, No. 2:24-cv-386 (E.D. Tex.)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a complete copy of the foregoing document was served on December 17, 2024 on counsel of record for the Patent Owner via email to the following address: GDC-SharkNinjaIPRD@gibsondunn.com.

/s/ Sheryl A. Brongiel
Sheryl A. Brongiel