

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GENEOSCOPY, INC.,
Petitioner,

v.

EXACT SCIENCES CORPORATION,
Patent Owner.

Case No: IPR2024-01330
U.S. Patent 11,970,746

**PATENT OWNER'S REPLY TO OPPOSITION
TO MOTION TO EXCLUDE EVIDENCE**

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Patent Owner's Reply to Opposition to Motion to Exclude Evidence

Petitioner does not contest that it introduced EX1090 for the first time with its reply. *See generally* Petitioner's Opposition to Patent Owner's Motion to Exclude Evidence ("Opp."). Petitioner also offers no reason why it could not have presented EX1090 with its Petition. *See id.* Petitioner's EX1090, and its arguments based on EX1090, should therefore be excluded. Consolidated Trial Practice Guide ("CTPG") at 73 (Nov. 2019) (a petitioner "may not submit new evidence or argument in reply that it could have presented earlier...").

Petitioner contends that EX1090 should be allowed because, rather than being necessary to satisfy Petitioner's burden, it simply "'confirms[s] the prima facie case' of obviousness." Opp. at 3. This ignores that Petitioner's prima facie case depends on Petitioner's argument that the combination of a nucleic acid test with the iFOBT of the Vilkin reference would result in "two samples." Pet. at 24. Yet, Vilkin describes testing three separate samples per subject and refrigerating those samples. EX1005 at 2519, 2520. Petitioner could have addressed those aspects of Vilkin in its Petition, but chose not to.

For the reasons set forth above and in Patent Owner's Motion to Exclude Evidence, the Board should exclude Exhibit 1090 and Paragraphs 48, 50, 96, and 97 of the Second Whitney Declaration.

Patent Owner's Reply to Opposition to Motion to Exclude Evidence

Date: November 7, 2025

/s/ James M. Glass

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Patent Owner's Reply to Opposition to Motion to Exclude Evidence

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Patent Owner's Motion to Exclude Evidence was served via email on November 7, 2025 on the following counsel of record for the Petitioner:

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