

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
and SAMSUNG ELECTRONICS AMERICA, INC.,
Petitioner,

v.

HARBOR ISLAND DYNAMIC, LLC,
Patent Owner.

Case No. IPR2024-01404
U.S. Patent No. 9,147,609

PETITIONER'S MOTION TO EXCLUDE EVIDENCE

I. PRELIMINARY STATEMENT

Pursuant to 37 C.F.R. § 42.64, Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively “Petitioner”), moves to exclude the entirety of Patent Owner’s Exhibits 2008, 2010, and 2011:

PATENT OWNER’S EXHIBITS	
2008	<i>Thermal Stresses around Void in Through Silicon Via in 3D SiP</i> by T. Kinoshita, et al., published in the 2014 International Conference on Electronics Packaging (April 2014)
2010	<i>TSV Cu Filling Failure Modes and Mechanisms Causing the Failures</i> , by J.W. Choi, et al., published in IEEE Transactions on Components, Packaging, and Manufacturing Technology, Vol. 4, No. 4 (April 2014)
2011	<i>Low Stress TSV Arrays for High-Density Interconnection</i> , by Jiao, et al. (2022)

The Federal Rules of Evidence (FRE) govern the admissibility of evidence in *inter partes* review proceedings. 37 C.F.R. § 42.62. As shown herein, the challenged exhibits are in violation of FRE 901 because Patent Owner failed to produce sufficient evidence to authenticate them. Moreover, the challenged exhibits are in violation of FRE 401, 402, and 403 as irrelevant, prejudicial, and confusing. Accordingly, the Board should exclude the objected-to exhibits in their entirety.

The Board may exercise its discretion to exclude evidence entirely, or alternatively, may decline to consider evidence. *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, IPR2013-00033, Paper 79, 3 (PTAB Aug. 9, 2013).

FRE 901 specifies that “the proponent [of an item of evidence] must produce evidence sufficient to support a finding that the item is what the proponent claims it is.” FRE 901(a). Additionally, according to FRE 401, “[e]vidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.” FRE 401. “Relevancy is not an inherent characteristic of any item of evidence.” FRE 401 Notes of Advisory Committee. “The standard of probability under the rule is ‘more probable than it would be without the evidence.’” *Id.* According to FRE 402, “[i]rrelevant evidence is not admissible.” FRE 402. FRE 403 adds that relevant evidence may be excluded “if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.” FRE 403.

II. EXHIBIT 2008

Petitioner moves to exclude Exhibit 2008 under FRE 901 as lacking authentication, as well as under FRE 401, 402, and 403 as irrelevant, prejudicial, and confusing. Petitioner objected to Exhibit 2008 on these grounds in Paper 18, filed July 7, 2025.

Patent Owner cited Exhibit 2008 to support its proposition that “not all voids or all hollow centers in through-silicon vias decrease thermal stress.” Patent Owner

Response (“POR”), 11, 24. The front page of Exhibit 2008 states that it was downloaded from IEEE Xplore, and the front page also states “ICEP 2014 Proceedings” on the top left. Such indicia alone are not enough to prove what the exhibit is. *TRW Automotive U.S. LLC v. Magna Elecs. Inc.*, IPR2014-01348, Paper 25 at 9-10 (PTAB Jan. 15, 2016) (the Board held it “cannot accept . . . that the presence of ‘0-7803-4975-X,’ either alone or in conjunction with ‘©1999 IEEE,’ on a document tends to prove that the document is an IEEE publication from an IEEE periodical”). Moreover, under FRE 901, the burden is on the evidence proponent to prove the date of publication of a non-patent literature document. *See, e.g., Acceleration Bay, L.L.C. v. Activision Blizzard, Inc.*, 908 F.3d 765, 772 (Fed. Cir. 2018). Yet, here, Patent Owner has not made any effort to establish the authenticity, dates, or public accessibility of Exhibit 2008 prior to the alleged critical date of the ’609 Patent. This failure to comply with FRE 901 warrants exclusion of Exhibit 2008. *Riverbed Technology, Inc. v. Realtime Data LLC*, IPR2016-00978, Paper 67 at 41 (PTAB October 30, 2017) (excluding Patent Owner’s exhibit “under F.R.E. 901 as an unauthenticated document” because it “has provided no [authentication] evidence”).

Moreover, even assuming Exhibit 2008 is truly a 2014 IEEE reference, 2014 spans more than 2 years after the alleged critical date of the ’609 Patent, October 7, 2011. Ex. 1019, 9. Patent Owner made no effort to show Exhibit 2008 was

published before October 7, 2011. Nor did it produce any explanation or evidence sufficient to support a finding that the disclosure in Exhibit 2008 is the same as would have been understood by a person of ordinary skill in the art at the time of the claimed invention. Instead, Patent Owner simply asserts “the POSITA’s knowledge of void characteristics at least through . . . *Kinoshita*.” POR, 26. Patent Owner’s expert, Mr. Berg similarly relies on Exhibit 2008 but provides no evidence or explanation for why a POSITA would have been aware of the disclosure of Ex. 2008 more than 2 years before the alleged critical date of the ’609 patent. Ex. 2012, ¶¶50-52, 64-67.

In its sur-reply, Patent Owner cites *Yeda Research and Dev. Co. v. Mylan Pharms. Inc.*, 906 F.3d 1031, 1041-42 (Fed. Cir. 2018), asserting that “post-priority documents can be used to show the knowledge of the POSITA. *Yeda Research* is inapposite because the reference there addressed knowledge of a POSITA before the priority date of the challenged patent. Here, Exhibit 2008 provides no such disclosure. Thus, Exhibit 2008 is irrelevant, confusing, and would be improperly considered in the evaluation of the knowledge of a POSITA at the alleged critical date of the ’609 patent.

Therefore, Exhibit 2008 should be excluded as lacking relevance to any issue in this proceeding, because any minimal probative value of this exhibit is substantially outweighed at least by a danger of confusing the issues. *See* FRE 403.

III. EXHIBITS 2010 and 2011

Petitioner moves to exclude Exhibits 2010 and 2011 under FRE 901 as lacking authentication, as well as under FRE 401, 402, and 403 as irrelevant, prejudicial, and confusing. Petitioner objected to Exhibits 2010 and 2011 on these grounds in Paper 18, filed July 7, 2025.

Although Patent Owner did not provide a construction for the claimed phrase “hollow center,” Patent Owner cited Exhibits 2010 and 2011 to support its position that a void as disclosed by the primary prior art reference, *Cooney* (Ex. 1004) is different from a “hollow center.” POR, 27-28, 30-31. The front page of Exhibit 2010 states that it was downloaded from IEEE Xplore, and the front page also states “IEEE TRANSACTIONS ON COMPONENTS, PACKAGING AND MANUFACTURING TECHNOLOGY, VOL. 4, NO. 4, APRIL 2014” on the top and bears a “©2014 IEEE” copyright notice on the bottom. Similarly, the front page of Exhibit 2011 states “Engineering 38 (2024) 201–208” on the top and bears a “©2024 THE AUTHORS” copyright notice on the bottom left. The front page further notes that it was available online on April 3, 2024. Such indicia alone are not enough to prove what the exhibits are. *TRW Automotive U.S. LLC*, IPR2014-01348, Paper 25 at 9-10.

Moreover, the burden is on Patent Owner to prove the publication date and public accessibility of a non-patent document. *See, e.g., Acceleration Bay, L.L.C.*,

908 F.3d at 772. Yet, here, Patent Owner made no effort to establish the authenticity, dates, or public accessibility of Exhibits 2010 and 2011 prior to the alleged critical date of the '609 Patent. This failure to comply with FRE 901 warrants exclusion of Exhibits 2010 and 2011. *Riverbed Technology*, IPR2016-00978, Paper 67 at 41.

Moreover, even assuming Exhibit 2010 is truly a 2014 IEEE reference, 2014 spans more than 2 years after the alleged critical date of the '609 Patent. Similarly, even assuming Exhibit 2011 is truly a 2024 reference, 2024 spans more than 12 years after the alleged critical date of the '609 Patent. Patent Owner fails to provide any evidence or argument as to how Exhibits 2010 and 2011 are relevant to showing state of the art prior to the alleged critical date of the '609 patent. Like with Exhibit 2008, neither Patent Owner or its Expert explain how Exhibits 2010 and 2011 actually show how a person of ordinary skill in the art would have understood the meaning of “hollow center” at the time of the '609 Patent. Thus, Exhibits 2010 and 2011 are irrelevant, prejudicial, confusing, and would be improperly considered in the evaluation of “the ordinary and customary meaning of a claim term . . . to a person of ordinary skill in the art in question at the time of the invention.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005) (en banc). Therefore, Exhibits 2010 and 2011 should be excluded as lacking relevance to any issue in this proceeding, because any minimal probative value of this exhibit

is substantially outweighed at least by a danger of confusing the issues. *See* FRE 403.

IV. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Board exclude Exhibits 2008, 2010, and 2011.

Respectfully submitted,

Dated: December 12, 2025

By: / Joshua L. Goldberg /
Joshua L. Goldberg, Lead Counsel
Reg. No. 59,369

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **Petitioner's Motion to Exclude Evidence** was served on December 12, 2025, via email directed to counsel of record for Patent Owner at the following:

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Patent Owner has consented to service by email.

Dated: December 12, 2025

/ William Esper /
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