

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

HARBOR ISLAND DYNAMIC, LLC,  
Patent Owner.

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Case No. IPR2024-01405  
U.S. Patent No. 9,245,826

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

Patent Owner's Opposition does not remedy the fundamental defects in Exs. 2007 and 2008. These exhibits should be excluded.

## **I. EXHIBIT 2007**

### **A. Lack of Authentication**

Patent Owner asserts that Mr. Berg authenticates Ex. 2007. Paper 30 ("Opp."), 2. He does not. Mr. Berg does not claim any personal knowledge of the document's authenticity, publication date, or accessibility. *See* Ex. 2004 ("Berg"), ¶51.

Patent Owner contends that the indicia appearing on Ex. 2007 are sufficient to authenticate the document. This is incorrect. The "©2013 IEEE" copyright notice and ISBN number, either alone or in combination, are insufficient to establish that the document is an IEEE publication. Paper 27 ("Motion"), 2-3 (citing *TRW Automotive U.S. LLC v. Magna Elecs. Inc.*, IPR2014-01348, Paper 25 at 9-10 (PTAB Jan. 15, 2016)). The label "2013 Electronic Components & Technology Conference" does not indicate what the document is or whether the conference was publicly accessible, and the starting page number does not demonstrate that the alleged larger volume is a published work. Ex. 2007, 1. The notation "Downloaded on March 15, 2025 at 22:51:32 UTC from IEEE Xplore" merely reflects access in 2025; it does not establish that the document was published in 2013, as Patent Owner claims.

Patent Owner asserts that Ex. 2007 can be downloaded from an IEEE Xplore URL. Opp., 2 n.2. But the referenced webpage displays a different document:

## A generalized regular form for sliding mode stabilization of MIMO systems

Publisher: IEEE

Cite This

PDF

W. Perruquetti ; P. Borne ; J.P. Richard [All Authors](#)

6

Cites in  
Papers

295

Full  
Text Views



### Abstract

[Authors](#)

[References](#)

### Abstract:

The paper investigates sliding mode control for multivariable nonlinear systems. The first result concerns the obtention of a regular form. Then, discussing on the rank of the input gain matrix, the asymptotic stabilization of the origin is investigated. An example is exposed in order to illustrate the obtained results.

Snapshot of <https://ieeexplore.ieee.org/document/657566>, *accessed on* December 12, 2025. IEEE Xplore information alone is thus insufficient for authentication.

None of these indicia demonstrates publication in 2013. This distinguishes the present case from those cited by Patent Owner. In *Continental Automotive Sys., Inc. v. Intellectual Ventures II, LLC*, the Board emphasized that the document at issue bore “a *publication date* of the [IEEE] Standard.” IPR2022-01130, Paper No. 41 at 14 (PTAB. Dec. 4, 2023) (emphasis original). And, in *Mercedes-Benz USA, LLC v. Daedalus Prime LLC*, the Board not only considered the IEEE Xplore information, but also relied heavily on a “MacPherson Declaration” for confirming “that copies of Xu were made available no later than the ‘last date of the conference,’ which was November 15, 2011.” IPR2023-1344, Paper No. 31 at 39 (PTAB January 25, 2025). In contrast, Ex. 2007 contains no evidence of a publication date, and Patent Owner has submitted no declaration to authenticate this non-patent literature.

Patent Owner asserts that Ex. 2007 is self-authenticating under FRE 902. Opp., 3 (citing *Intel Corp. v. Pact CPP Schweiz AG*, IPR2020-00528, Paper No. 39 (PTAB Aug. 9, 2021)). But FRE 902 applies only to documents bearing

characteristics that render them self-authenticating without extrinsic evidence. The characteristics here do not evidence authenticity or publication. In *Intel*, unlike here, the document at issue was a “physical copy which shows that Yu was found in a physical volume published in 1996.” IPR2020-00528, Paper No. 39 at 17. The Board specifically “credit[ed] ... testimony that the date on the article, 1996, corresponds to the ‘date of publication.’” *Id.* It also relied on witness testimony authenticating the physical copy. *Id.* Here, Patent Owner offers none of this evidence.

### **B. Irrelevant, Prejudicial, and Confusing**

Patent Owner again argues that extrinsic evidence may postdate the critical date of the '826 Patent. Opp., 4. This is incorrect. Postdating references are irrelevant and should be excluded from claim construction analysis. *Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1299 (Fed. Cir. 2003). Patent Owner’s cited case law does not contravene this precedent. See Opp., 4; *Bancorp Servs., L.L.C. v. Hartford Life Ins. Co.*, 359 F.3d 1367, 1375 (Fed. Cir. 2004) (holding that a district court erred in refusing to consider extrinsic evidence that was a non-public use but nonetheless “before the priority date of the [] patent”); *Disney Enters., Inc. v. Kappos*, 923 F. Supp. 2d 788, 800-01 (E.D. Va. 2013) (permitting the use of postdating references in assessing the state of the art—not for claim construction).

## **II. EXHIBIT 2008**

### **A. Lack of Authentication**

Patent Owner again asserts that Mr. Berg’s declaration authenticates this

exhibit. Opp., 5. It does not. Mr. Berg asserts no personal knowledge regarding the document’s authenticity, publication date, or public accessibility, nor does he indicate any investigation into these issues. Instead, he merely identifies the document as a “paper ‘Optimizing Die Corner and Optical Groove Corner Crackstop Support Structures for Mitigating Dicing and CPI Risks’ (Rabie et al., 2021).” Berg ¶52. Nothing more. *Id.* This does not authenticate Ex. 2008.

Patent Owner argues that Ex. 2008’s indicia are sufficient to authenticate the document. Opp., 5-6. This is incorrect. The “©2021 IEEE” copyright notice and ISBN number, whether considered individually or together, are insufficient to establish that the document is an IEEE publication. Motion, 2-3 (citing *TRW*, IPR2014-01348, Paper 25 at 9-10). In addition, the label “2021 IEEE 71st Electronic Components and Technology Conference (ECTC)” does not indicate what the document is or whether the conference was publicly accessible, and the starting page number does not demonstrate that the alleged larger volume constitutes a published work. Ex. 2008, 1. Further, the notation “Downloaded on March 15, 2025 at 22:32:25 UTC from IEEE Xplore” reflects access in 2025—not publication in 2021.

The indicia, even if considered collectively, do not authenticate Exhibit 2008. None of these indicia evidence publication in 2021. Unlike the cases cited by Patent Owner, Ex. 2008 contains no evidence of a publication date and Patent Owner has submitted no authentication declaration *Cf. Continental*, IPR2022-01130, Paper No.

41 at 14; *Mercedes-Benz*, IPR2023-1344, Paper No. 31 at 39.

Patent Owner also asserts that Ex. 2008 is self-authenticating under FRE 902. Opp., 3 (citing *Intel*, IPR2020-00528, Paper No. 39). But as explained above, Ex. 2008's indicia fall far short of establishing its publication. Moreover, unlike the evidence in *Intel* (i.e., a physical copy authenticated by ample witness testimony), Patent Owner offers no authenticating testimony, and Exhibit 2008 is not a physical copy. Cf. *Intel*, IPR2020-00528, Paper No. 39 at 17.

**B. Irrelevant, Prejudicial, and Confusing**

Patent Owner argues that extrinsic evidence may postdate the '826 Patent's alleged critical date. Opp., 6. This is incorrect. Even assuming Ex. 2008 is a 2021 IEEE reference, this is eight years after the critical date. *Id.*, 6-7. Such a gap renders Ex. 2008 irrelevant to any issue, let alone claim construction. *Brookhill-Wilk 1*, 334 F.3d at 1299. Patent Owner's Opposition provides no justification to the contrary.

Patent Owner cites *In Re Epstein* to argue that documents years after the priority date can be relied on to show the state of the art. Opp., 7. But the documents in *Epstein* were used to show the public use of software products before the critical date. 32 F.3d 1559, 1566-67 (Fed. Cir. 1994). That is not the case here: Ex. 2008 does not disclose anything occurring before the '826 Patent's alleged critical date.

Respectfully submitted,

Dated: December 15, 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 Reply to Patent Owner's Opposition to Motion to Exclude Evidence** was served on December 15, 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 15, 2025

/ William Esper / \_\_\_\_\_  
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