

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CAIHONG DISPLAY DEVICES CO., LTD.,
Petitioner

v.

CORNING INCORPORATED,
Patent Owner

Case IPR2025-00439
U.S. Patent No. 7,851,394

PATENT OWNER'S MOTION TO STRIKE

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Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

PATENT OWNER'S UPDATED EXHIBIT LIST

Exhibit No.	Description
2001	Dr. Goel vs. Dr. Ernst Declaration Comparison
2002	Letter from John Thorne to Rutgers
2003	Board Email (April 10, 2025)
2004	Meet and Confer Email; Opposing Motion Email (April 10, 2025; April 16, 2025)

Patent Owner Corning Inc. (“Patent Owner”) files this Motion pursuant to 37 C.F.R. §§ 42.5(a), 42.71(a) (allowing the Board to determine the proper course of a proceeding, take up motions, and enter any appropriate order to administer the proceeding). The Board should strike certain paragraphs of the Declaration of Prof. Frank Ernst as untimely and submitted in contravention of the Board’s express instructions. *See Samsung Electronics America, Inc. v. Kannuu PTY Ltd.*, IPR2020-00738, Paper 106 (P.T.A.B. Redacted Version July 22, 2022) (granting a motion to strike untimely evidence). The Board instructed Petitioner to submit a substitute expert declaration that was “substantively identical” to the declaration submitted with the Petition. *See* EX3001, 2-3.

The Ernst Declaration¹ submitted is not substantively identical to the originally presented Goel Declaration. *See* EX2001. The Ernst Declaration violates the Board’s authorization and exceeds the proper scope of a substitute declaration. *Palo Alto Networks, Inc. v. Finjan, Inc.*, IPR2015-01979, Paper 62 (P.T.A.B.

¹ Patent Owner also notes that there are now two Exhibit 1003s in the record as Petitioner has not explicitly requested the original Goel declaration be *expunged*, but rather merely asked it to be replaced by the new Ernst declaration. Patent Owner requests the Board remedy this situation by recording the Goel Declaration as “EX1003 (original)” and the Ernest Declaration as “EX1003 (substitute).”

March 15, 2017) (granting a motion to strike evidence outside the scope of a proper reply). The substantive changes made to the declaration introduce new matter that is untimely because it was not submitted at the time the Petition was filed. The substantively revised paragraphs should be stricken from the record in this proceeding.

I. Background and Procedural History

Caihong Display Devices Co, Ltd. filed the Petition in this matter on January 13, 2025. Petitioner submitted an expert declaration from Professor Ashutosh Goel in support of the arguments made in the Petition. Professor Goel, however is a consultant for Patent Owner. Specifically, Prof. Goel is a professor of engineering at Rutgers University with an ongoing research collaboration with Corning.

Upon learning that Prof. Goel was serving as an expert adverse to Patent Owner in this proceeding, Patent Owner reached out to Rutgers University. *See* EX2002. Although Prof. Goel and his students have collaborated extensively with Patent Owner in the past, Patent Owner did not seek to exclude Prof. Goel as an expert in this proceeding. Instead, Patent Owner informed Rutgers University that it would temporarily be halting its collaboration with Prof. Goel and his students during the pendency of the litigation between Patent Owner and Petitioner. This was out of concern that Prof. Goel could obtain Patent Owner confidential information while at the same time working for Petitioner adverse to Patent Owner.

This legitimate protective measure was not retaliatory against Rutgers University or Dr. Goel. *Id.*

On March 21, 2025, Petitioner requested authorization to replace Prof. Goel with another expert and submit a substitute expert declaration in support of the Petition. Petitioner alleged that Prof. Goel was no longer willing to be an expert for Petitioner, and accused Patent Owner of misconduct. EX3001, 8. The Board requested a response from Patent Owner. EX3001, 7.

On March 24, 2025, Patent Owner denied any misconduct and offered to present evidence of its proper conduct should the Board request. EX3001, 6-7. Patent Owner also responded that it consented to and would not oppose Petitioner replacing Petitioner's expert and expert declaration so long as: (1) only the biographical information is updated in the declaration, and none of the arguments are changed, and (2) Petitioner verifies to Patent Owner and the Board that Petitioner's new expert has never worked with Corning and has no Corning confidential information. *Id.*

On March 26, 2025, the Board requested that Petitioner advise whether it was amenable to Patent Owner's proposed agreement and two conditions. EX3001, 5. On March 28, 2025, Petitioner responded, but its statement of agreement did not match the language of Patent Owner's conditions. EX3001, 3. It was unclear whether Petitioner was in agreement that only the biographical information in the

declaration would be changed. Accordingly, on April 1, 2025, the Board instructed:

Petitioner states that it “will not raise any new art or new arguments of unpatentability beyond those set forth in the as-filed Petition and Dr. Goel’s declaration in support thereof.” We understand this to mean that the replacement declaration will be substantively identical to that in the originally filed Goel Declaration. With that understanding of Petitioner’s statement, we understand that Patent Owner does not object to Petitioner replacing Dr. Goel’s declaration. Based on these understandings, we treat Petitioner’s email as a Motion to Replace the Declaration of Professor Goel and we GRANT Petitioner’s motion.

EX3001, 2-3. The Board permitted Petitioner to file a substitute declaration by March 4, 2025 (corrected to April 4, 2025, EX3001, 1), subject to Petitioner’s confirmation of the Board’s understanding as stated above. EX3001, 2-3.

Petitioner confirmed the Board’s understanding and did not present any need or justification to change the declaration beyond updating the biographical information for the expert. EX3001, 1. On April 4, 2025, Petitioner filed a substitute declaration from Prof. Ernst. *See* Paper 6, New EX1003. Petitioner did not include a comparison document showing changes made to the declaration.

The substitute declaration was not substantively identical to the originally filed Goel Declaration. On April 10, 2025, Patent Owner emailed the Board preserving their right to file a Motion to Strike, as requested by the Trial Practice

Guide. EX2003. And, on April 10, 2025, Patent Owner reached out to Petitioner requesting a meet and confer regarding the substantive changes to the declaration, citing specific examples, and requested that Petitioner provide a comparison document. Petitioner refused to provide a comparison. EX2004, 2-3.

And on April 11, 2025, the parties held a conference call during which Patent Owner identified substantive differences between the declarations and explained why they were inappropriate. On April 15, 2025, Patent Owner followed up with an email listing each paragraph that contained an inappropriate substantive change, namely ¶¶36, 46, 53, 55, 57, 59 (partial), 64, 66, 67, 88, 91, 111, 117, 138, 163, 167, 193, 225 (chart). EX2004, 2. Patent Owner requested that Petitioner agree to file a replacement declaration that did not include these substantive changes, or provide its position on a motion to strike these paragraphs. *Id.*

On April 16, 2025, Petitioner responded that it would not agree to revert to a version of the declaration that was substantively identical to the originally filed Goel Declaration, and opposes Patent Owner's motion. EX2004, 1.

On April 18, 2025, Patent Owner requested authorization to file a motion to strike the offending paragraphs of the Ernst Declaration, which was granted during a teleconference with the Board on April 25, 2025.

II. Statement of Precise Relief Requested

Patent Owner moves the Board to strike ¶¶36, 46, 53, 55, 57, 59 (partial), 64, 66, 67, 88, 91, 111, 117, 138, 163, 167, 193, 225 (chart) of Prof. Ernst's declaration as being untimely and outside the scope of the Board's authorization to submit a substitute declaration. The Board should direct Petitioner to file a replacement declaration in which these paragraphs are redacted.

III. Argument

The Board should strike all paragraphs of the Declaration of Prof. Ernst that are not substantively identical to the Goel Declaration as untimely and submitted in contravention of the Board's express instructions. *See Samsung*, IPR2020-00738, Paper 100. The Ernst Declaration exceeds the scope of the Board's authorization and therefore exceeds the proper scope of a substitute declaration. *Palo Alto Networks*, IPR2015-01979, Paper 62. It is improper and cannot be used to support the Petition.

A. The Ernst Declaration is not substantively identical to the originally filed Goel Declaration.

Patent Owner's consent to Petitioner's substitute declaration was based on the condition that only the biographical information for the expert would be updated in the declaration, and none of the arguments would be changed. The Board then granted Petitioner's motion to submit a substantive declaration

expressly based on the understanding “that the replacement declaration will be substantively identical to that in the originally filed Goel Declaration.” EX3001, 3.

The substitute declaration that Petitioner filed changed far more than the biographical declaration. Numerous substantive and non-substantive changes were made throughout the declaration. *See* EX2001 (redlining the Ernst Declaration against the originally filed Goel Declaration). Petitioner did not alert the Board or Patent Owner to any of these changes, did not provide a reason for making the changes, and did not submit a comparison document showing the extent of the changes. Petitioner’s lack of candor is telling. The changes to the declaration are neither compliant with the Board’s authorization nor are they justified.

To be clear, this Motion does not seek to strike every change made—although doing so would be appropriate and within the Board’s discretion. This Motion only seeks to strike the paragraphs detailed in the chart below, which provides a redline of the change on the left, and an explanation for why the change is substantive in nature (and therefore inappropriate) on the right.

The Board should find that the paragraphs detailed below are not substantively identical to the originally filed Goel Declaration and that there is no justification for the changes. These paragraphs therefore exceed the scope of the Board’s authorization to file a substitute declaration. That violation alone is a basis to strike these paragraphs.

Changed Paragraph	Reason the Change is Substantive
36. I understand that a POSITA is one who is presumed to be aware of all pertinent art, thinks along conventional wisdom in the art, and is a person of ordinary creativity. A POSITA would have ~~had comprehensive knowledge of and experience with deep understanding of the concepts of glass materials science aspects and the underlying physical, chemical, and mathematical concepts of the science of glasses, as relevant to the~~ ‘394 patent, ~~for~~. For example, ~~this would include~~ (but ~~is~~ not limited to,) ~~the concepts of~~ liquidus temperature, viscosity, coefficient of thermal expansion (~~CTE~~), strain point, density, ~~and~~. Further, a POSITA would have ~~5-10 years considerable understanding of and~~ experience with design, synthesis, and characterization of silicate, borosilicate, aluminosilicate and boroaluminosilicate glasses, ~~demonstrable in the form of peer-reviewed publications and/or patents~~	Changing the level of ordinary skill in the art and the definition of a POSA changes the lens through which the claims and the prior art are evaluated. It also changes the level of ordinary creativity and the ability of the POSA to modify the prior art. Petitioner has increased the level of skill in the art, thus attempting to bolster the prior-art based invalidity grounds. Without taking a position on what the POSA definition should be, Patent Owner is only challenging whether Petitioner can change its definition between declarations.
46. ~~To make the finning process easier and more effective~~ Further, the Applicant indicates that ~~the MgO content and $\Sigma[\text{RO}]/[\text{Al}_2\text{O}_3]$ ratio, where $[\text{Al}_2\text{O}_3]$ is the mole percent of Al_2O_3 and $\Sigma[\text{RO}]$ equals the sum of the mole percents of MgO, CaO, SrO, and BaO, are critical to the glass performance and, in particular, with regard to meltability and fining. <i>Id.</i> at 7:28-33, 12:46-55. As, as described in the ‘394 Patent, the MgO mole percentage fraction X_{MgO} of MgO should be within 1% to 3% the range $X_{\text{MgO}} = 1$ to 3 mol%, in order to reduce the liquidus temperature, thus increasing/increase the liquidus viscosity. <i>Id.</i> at 10:19-44. In addition, the $\Sigma[\text{RO}]/[\text{Al}_2\text{O}_3]$ ratio should be higher/greater than 1.00 to avoid inclusions (blisters) in the glasses and maintain high viscosity during the fining process. <i>Id.</i> Abstract, FIG. 3 as reproduced below.~~	The declaration has deleted a statement acknowledging a criticality in the claimed ranges. Where, as here, the unpatentability grounds are based on disclosures of overlapping ranges, statements of criticality can distinguish the prior art.
53. Similar to the ‘394 Patent, Miwa ~~also describes the specified specifies a continuous range of~~ glass compositions, ~~including that achieve favorable properties. Different from the ‘394 Patent, however, Miwa indicates the respective glass compositions by providing ranges for the mass (or weight – not mole) fractions of~~ SiO_2, B_2O_3, Al_2O_3, MgO, CaO, SrO, and BaO. <i>Id.</i> at [0022], ~~in certain~~	The declaration changes the way the prior art is characterized, describing Miwa’s example compositions as a “continuous range.” And referring to the examples as a “range of compositions.” The petition’s invalidity

Changed Paragraph	Reason the Change is Substantive
~~weight percentages~~ <u>Glasses within the specified range of compositions are shown to achieve properties such as possess</u> high thermal shock resistance, <u>high</u> chemical resistance, <u>high</u> transparency across visible and ultraviolet <u>spectral</u> regions, low density, and a thermal expansion coefficient ~~matched to~~ <u>matching that of</u> silicon substrates. ~~They demonstrate~~ <u>For example, the glass disclosed by Miwa demonstrates</u> excellent mechanical stability and resistance to hydrochloric acid, making ~~it them~~ <u>ideal for Thin Film Transistor (“TFT”) (thin-film transistor)</u> displays, thin-film photovoltaics, and hard-disk substrates, while addressing disadvantages found in prior art related to mechanical stability and meltability. <i>Id.</i> at [0055]. In summary, Miwa teaches <u>similar</u> alkali-free glass substrates with similar compositions and similar physical and chemical properties as the ‘394 patent, ~~which~~ <u>Miwa’s glass compositions</u> are also suitable for flat panel display applications.	grounds are based on modifications to certain examples in Miwa. Describing those examples as being part of a continuous range (rather than discrete embodiments) implies that Miwa discloses all compositions that are in between the expressly disclosed examples.
55. Converting the weight percentages in Miwa’s Embodiment 15 to the mole percentage, Miwa teaches that the glass has the following alkali-free compositions in mole percentages as shown below: SiO₂: 67.19 ~~mole~~ <u>2 mol</u>% Al₂O₃: 10.22 ~~mole~~ <u>2 mol</u>% B₂O₃: 10.29 ~~mole~~ <u>3 mol</u>% MgO: 2.40 ~~mole~~ <u>1 mol</u>% CaO: 9.29 ~~mole~~ <u>3 mol</u>% SrO: 0.63 ~~mole~~ <u>mol</u>% BaO: 0.21 ~~mole~~ <u>mol</u>% SnO₂: 0.04 ~~mole~~ <u>mol</u>% As₂O₃: 0.0 ~~mole~~ <u>mol</u>% Sb₂O₃: 0.02 ~~mole~~ <u>mol</u>% Fe₂O₃: 0.00 ~~mole~~ <u>mol</u>% Σ[RO]/[Al₂O₃] = 1.24 <u>20</u>	The declaration has rounded the numbers in the chart, changing the significant figures and making the numeric disclosure seem broader than originally presented. Where the unpatentability grounds are based on overlapping numeric ranges and a POSA’s expectation of success in modifying numeric values, small changes to the numbers can make the prior art seem closer to the challenged claims.
57. Similar to the ‘394 Patent, Bange also describes ~~the a continuous range of~~ glass compositions <u>by specifying ranges of mole fractions X_i</u>, including <u>for</u> SiO₂, B₂O₃, Al₂O₃, MgO, CaO, SrO, and BaO, ~~in certain mole percentages to~~ <u>Glass compositions within the specified range</u> achieve properties such as low density,	The declaration changes the way the prior art is characterized, describing Bange’s example compositions as a “continuous range.” And referring to the examples as a “range of

Changed Paragraph	Reason the Change is Substantive
high strain point, low CTE, low liquidus temperature, high liquidus viscosity, and high chemical durability. <i>Id.</i> , 4:65-5:37.	compositions.” The petition’s invalidity grounds are based on ranges disclosed in Bange. Changing the expert’s characterization of Bange’s disclosure changes the foundation of the invalidity grounds.
59. (partial) This information was well known at the time the ‘394 patent was filed, and a POSITA would have found combining Miwa with Bange to constitute combining prior art elements where the ~~total concentration~~ <u>combined fraction</u> of BaO and SrO (~~SrO+BaO~~ <u>$X_{SrO}+X_{BaO}$</u>) can be optimized to obtain low-density alkali-free substrate glasses according to known fabrication methods.	Changing Bange’s disclosure from “total concentration” to “combined fraction” changes the way one of skill in the art would evaluate the claimed composition in view of Bange’s teachings.
64. The composition of Miwa’s ~~e~~ Embodiment 15 was converted from weight percent (<u>mass fractions</u>) to mole percent, ~~as shown in (fractions) according to the table below.~~ <u>Formula $x_{Cl} = \frac{W_{i/mi}}{\sum_{i=1}^N W_{i/mi}}$ and is shown in the table below. EX1004, Table 4.</u> [same calculation issue as paragraph 64]	The declaration provides a new equation and calculates the numbers in the chart differently. The invalidity grounds are based on numeric ranges, making the significant figures of the numeric disclosure material to patentability.
66. Miwa discloses that the glass composition can comprise <u>a mass fraction of</u> “BaO 0-10%,” Ex1004, ¶[0022] and further, <u>again referring to mass fractions</u> , discloses “BaO, like SrO, is an ingredient that improves the chemical resistance and impermeability of glass. . . . As the BaO ~~content~~ increases, the density of the glass and the coefficient of thermal expansion tend to increase, and its fusibility tends to deteriorate significantly.” EX1004, [0030].	The declaration again changes the characterization of the prior art to be mass fractions rather than percent concentrations.
67. Both SrO and BaO play a network-modifying role in these glasses and their ~~total concentrations, i.e., SrO+BaO,~~ <u>combined mass fraction ($W_{SrO}+W_{BaO}$) or, equivalently, combined mole fraction ($X_{SrO}+X_{BaO}$),</u> can be optimized to obtain glasses with desired density, coefficient of thermal expansion and refractive index. In other words, to obtain low-density glasses, BaO may be set to 0 and the corresponding ~~amount~~ <u>fraction</u> of BaO may be replaced by SrO. For example, the concentration of SrO in Miwa’s ~~e~~ Embodiment 15 may be increased to <u>$X_{SrO} = 0.84$ mole percentmol%</u> with ~~BaO being~~ <u>$X_{BaO} = 0.00$ mol%</u> , while the other components	The declaration changes the characterization of the prior art to be mass fractions instead of total concentrations and provides an additional alleged equivalency between mass fraction and mole fraction.

Changed Paragraph	Reason the Change is Substantive
remain unchanged. ~~Replacing~~ <u>Completely replacing</u> BaO with SrO is one of a finite number of identified ways to obtain non-alkali low-density glasses and would have had a reasonable expectation of success of their combination.	
88. . . . Miwa discloses ~~an~~ <u>a range of</u> alkali-free glass ~~comprising in compositions by specifying mass (weight-percent) fractions of components~~ on an oxide basis. EX1004, at [Claim 3], Tables 1-5. As discussed above, ~~it is well-known to convert a-glass composition from weight percent to compositions can be specified as mass fractions or mole percent fractions, and these can be converted into each other with the help of the known atomic and molecular masses.~~	The declaration changes the characterization of the prior art to disclose a range of compositions instead of discrete embodiments and changes the characterization from weight percent to mass fraction. These changes are meant to close the gap between the claims and the prior art.
91. The <u>mass (weight-percentages) fractions</u> of Miwa's ~~e~~ Embodiment 15, when converted to mole ~~percentage clearly fractions~~ , show that Miwa describes an alkali-free glass where the ~~concentration~~ <u>mole fractions</u> of SiO ₂ , Al ₂ O ₃ , B ₂ O ₃ , MgO and CaO are in the respective ~~concentration~~ ranges claimed in limitation 5[a]. EX1004, Table 4. A comparison of the ~~concentration~~ <u>mole-fraction</u> ranges of each oxide (~~in mole%~~) in limitation 5[a] and the ~~molar composition~~ <u>mole fractions</u> of ~~e~~ Embodiment 15 of Miwa is presented ~~below in the following~~ : [same calculation issue as paragraph 64].	Changing the characterization of the prior art from describing concentrations to instead providing mole fractions is meant to close the gap between the claims and Miwa. Additionally, the numbers in the chart are rounded to make the disclosure seem broader.
111. Since the slope of a linear graph is independent of the beginning or end value of x-axis (in this case, temperature), the temperature range over which CTE is measured in this case, i.e., <u>0-300°C ('394 patent) vs. 30-380°C (Miwa), is inconsequential. Said another way, the temperature interval [T₁, T₂] = [0°C, 300°C] referenced in the '394 Patent, the CTE of Miwa's glass will overlap with the interval of [28·10⁻⁷ K⁻¹, 34·10⁻⁷ K⁻¹] reported in the in the '394 Patent.</u>	The declaration adds a new argument equating the CTE temperature range disclosure in Miwa to the CTE temperature range required by the claims. Whether the range overlaps is a different argument than the range being inconsequential.
117., 167., 193., 225. [same calculation issue as ¶64].	See above.
138. [same issue as ¶111].	See above.
163. [same issue as ¶53].	See above.

B. The Board cannot consider untimely evidence submitted in support of the Petition.

Even if the Board were to tolerate Petitioner’s flagrant disregard for the Board’s express instructions—which it should not—the Board would lack statutory authority to consider the new matter submitted in the Ernst Declaration. The new matter included in Prof. Ernst’s declaration constitutes untimely evidence because it was not submitted at the time of filing the Petition. *See American Well Corporation v. Teladoc Health, Inc.*, IPR2021-00748, Paper 23, P.T.A.B. Feb. 28, 2022) (denying motion to submit supplemental information in expert declaration). Allowing Petitioner to augment the arguments and evidence by way of the supplemental expert declaration would both prejudice the Patent Owner and would violate the statutory particularity requirement of 35 U.S.C. § 312(a)(3). The changed paragraphs of the declaration should therefore be stricken for this additional reason.

As the Federal Circuit has explained, it is incumbent on Petitioners to “set forth their best grounds of unpatentability and supporting evidence in their petitions.” *Redline Detection, LLC v. Star Envirotech, Inc.*, 811 F.3d 435, 445 (Fed. Cir. 2015) “The guiding principle for the PTAB in making any determination is to ‘ensure efficient administration of the Office and the ability of the Office to complete IPR proceedings in a timely manner.’” *Id.* Timeliness and relevancy are “construed within the overarching context of the PTAB’s regulations governing

IPR and general trial proceedings.” *Id.* at 446–47 (citing 37 C.F.R. § 42.5(a), (b)).

To that end, the PTAB has discretion to grant or deny motions within its statutory authority.

For instance, the Board has discretion to allow supplemental expert declarations where the information added does not change the evidence initially presented in the petition. *See, e.g., DraftKings Inc., v. Interactive Games LLC*, IPR2020-01110, Paper 16 at 9 (P.T.A.B. Mar. 11, 2021). The supplemental declaration in *DraftKings* was “simply [to] correct typographical or clerical errors in the [original declaration], without adding any substantive information to what was intended to be included in the declaration, as reflected in the declaration itself.” *Id.*; *see also Group III Int’l, Inc. v. Targus Int’l, LLC*, IPR2021-00371, Paper 33 at 6 (P.T.A.B. Sept. 17, 2021) (same).

Conversely, the Board must deny entry of supplemental information where that information substantively changes the evidence in support of the petition. *See Nissan N. Am., Inc. v. Diamond Coating Techs., LLC*, IPR2014-01548, Paper 37 at 3–4 (P.T.A.B. July 15, 2015) (denying entry of supplemental information where petitioner sought to submit an expert declaration that contained new opinions as to how a person of ordinary skill in the art would understand the disclosure in the references). Supplemental expert testimony regarding the level of ordinary skill in the art is particularly problematic because such changes “refine or bolster

petitioner's position," and thereby prejudice the patent owner. *See, e.g., Ooma, Inc. v. Deep Green Wireless LLC*, IPR2017-01541, Paper 14 at 3–4 (P.T.A.B. Jan. 23, 2018). That is precisely the situation presented here.

As detailed above, Petitioner's new expert first changes the articulation of the person of ordinary skill, raising the level of skill in the art. This changes the lens through which the prior art is analyzed and petitioner's motivation-to-combine analysis is evaluated. Petitioner's new expert then changes how the newly defined POSA would understand the prior-art disclosures, characterizing both the claims and the prior art as broader than they were previously presented. It was incumbent on Petitioner to present these arguments in the Petition. Allowing Petitioner to materially change the evidentiary support for its invalidity positions, through its new expert declaration revising statements from the original declaration, prejudices Patent Owner and undermines the efficient administration of the Office.

To make matters worse, the present posture is not even one where Petitioner requested leave to submit supplemental information and provided justification. Rather, Petitioner submitted a new expert declaration with supplemental arguments after only being authorized to submit one that was "substantively identical" to the declaration originally filed. EX3001, 2-3. Petitioner ignored the Board's order and filed a noncompliant declaration without even providing a redline—forcing Patent Owner to create its own comparison document and move for relief. The Board

should deny entry of this improper supplemental information by striking the paragraphs of the new declaration detailed in the chart above.

IV. Conclusion

The Board should grant the motion and strike paragraphs ¶¶36, 46, 53, 55, 57, 59 (partial), 64, 66, 67, 88, 91, 111, 117, 138, 163, 167, 193, 225 (chart) of Prof. Ernst's declaration. In the alternative, and at the very least, the Board should deny entry of the Ernst Declaration and direct Petitioner to refile a substitute declaration that is substantively identical to the originally filed Goel Declaration.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX PLLC

/Jason D. Eisenberg/

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Date: April 25, 2025

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

I certify that the above-captioned **PATENT OWNER'S MOTION TO STRIKE** was served in its entirety on April 25, 2025 upon the following party via electronic mail:

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MERCHANT AND GOULD PC

Respectfully submitted,

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