

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EOPTOLINK TECHNOLOGY USA INC.,
Petitioner,

v.

APPLIED OPTOELECTRONICS, INC.
Patent Owner.

IPR2026-00094
U.S. Patent No. 10,578,818

**DECLARATION OF DIRK LUTZ IN SUPPORT OF PETITIONER'S
OPPOSITION TO PATENT OWNER'S REQUEST FOR
DISCRETIONARY DENIAL**

I, Dirk Lutz, declare as follows:

1. I am a Distinguished Engineer at Eoptolink Technology Inc., Ltd. (“Eoptolink”), a real party-in-interest in this IPR. I am over the age of 18 years and am submitting this declaration in support of Petitioner’s Opposition to Patent Owner’s Request for Discretionary Denial. The matters stated herein are based upon my personal knowledge, work at Eoptolink, and review of Eoptolink’s business records created and maintained in the ordinary course of business, and if called as a witness, I would testify as to the following statements.

2. In the parallel district court litigation, *Applied Optoelectronics, Inc. v. Eoptolink Technology USA Inc.*, No. 5:24-cv-08165-NW (N.D. Cal.), Patent Owner has accused Petitioner of infringing U.S. Patent No. 10,578,818 (“the ’818 patent”) by allegedly importing, offering for sale, and selling in the United States the accused 100G LR4 (QL97099330) product (“Accused 100G LR4 Product”).

3. The Accused 100G LR4 Product has been sold in the United States since at least as early as August 2018. Given that the Accused 100G LR4 Product has been sold in the United States since at least August 2018, Petitioner and Eoptolink were surprised when Patent Owner filed the district court litigation on November 19, 2024, alleging that Petitioner infringed the ’818 patent by importing, offering for sale, and selling in the United States the Accused 100G LR4 Product. Neither Eoptolink nor Petitioner had any prior notice of the ’818

patent or Patent Owner's allegations of infringement before Patent Owner filed its district court litigation. Neither Petitioner nor Eoptolink expected infringement allegations over six years after launch of the Accused 100G LR4 Product in the U.S., particularly after they invested substantial time and resources to build the U.S. market for the product during that time.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, that all statements made herein of my knowledge are true, and that all statements made on information and belief are believed to be true, and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Dated: February 12, 2026

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dirk Lutz", written in a cursive style.

Dirk Lutz