

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COLLEGE PRODUCTS, INC.,

Petitioner,

v.

INTIRION CORPORATION,

Patent Owner.

Case No. PGR2024-00004

Patent No. 11,674,746

**PATENT OWNER'S OBJECTIONS TO PETITIONER'S EXHIBIT LIST
AND EXPERT REPORTS**

EXHIBITS AND OBJECTIONS

Exhibit #	Objection
1002	<u>37 C.F.R. §§ 42.24(a) and 42.6(a)(3):</u> All Paragraphs which Petitioner attempted to improperly incorporated into other declarations and the Petition. <u>FRE 702, 703, 37 C.F.R. §§ 42.65(a) and (b)</u> ¶¶ 18, 48-56, 57-62, 64, 68-72, 73-76, 77-82, 83-88, 89-92, 93-95, 101-103, 126, 132-133, 140, 143-145, 154-164, 169, 176-179, 189-191, 215-219, 224-226, 227-231, 232-242, 244-246, 250-251, 255, 259, 260, 261, 262, 272, 273, 274-275, 276-277, 278-281, 282, 283, 284-285, 286-287, 288, 289, 291, 296, 298-304, 305-311, 312-320. These are not based on sufficient facts or data, do not disclose underlying facts or data, rely on documents and exhibits not before the Patent Trial and Appeal Board, do not sufficiently explain the test or data in accordance with 42.65(b), and/or are not the product of reliable scientific principles and methods. <u>FRE 602, 701, 702, 703, 802:</u> ¶¶ 96-98, 159-161, 168-170, 217, 224-225, 252-253, 261, 262, 274, 279, 290, 296, Appendix B, Appendix C, Appendix D, are not based any qualified expert's testimony, not based on personal knowledge, rely on or contain hearsay, and are improper lay witness opinion testimony. <u>FRE 402, 403:</u> All paragraphs, which relate to patents not involved in this proceeding and additionally ¶¶ 1-4, 17, 18, 23, 27, 43, 48-56, 57-63, 64-67, 68-72, 77-82, 83-88, 93-95, 96-100, 101-103, 117, 118-126, 128, 129-131, 132-133, 136, 140, 141-142, 143-145, 150-153, 154-164, 168-170, 174-175, 176-179, 186-188, 189-191, 192, 207-214, 215-219, 220, 224-226, 227-231, 232-242, 243, 244, 245-246, 247-249, 250-251, 252-253, 255, 259, 260, 261, 262, 264-271, 272, 273, 274-275, 276-277, 278-281, 282, 283, 284-285, 286-287, 288, 289, 290, 291, 295, 296, 298-304, 305-311, 312-320. These are not relevant; to the extent they are relevant, their probative

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	value is outweighed by the danger of causing unfair prejudice and confusing the issues because they improperly characterize a document or general knowledge. <u>FRE 106, 402, 403, 602, 701, 702, 703, 802, 901</u>: Appendix B; Appendix C; Appendix D; Appendix E
1004	FRE 106, 402, 403 This is not the operative Complaint and is not referenced or relied upon in the Petition, declarations, or other exhibits.
1008	FRE 106, 402, 403
1009	FRE 106, FRE 402, 403 Intirion has since submitted updated infringement charts; the parties have engaged in claim construction briefing; the ‘876 patent claims are not identical to the ‘746.
1011	FRE 106, 402, 403
1012	FRE 106, 402, 403, 602, 701, 702, 703, 705, 802, 901, 1002 For example, ISDU is not relevant because Petitioner has not met its burden to prove ISDU qualifies as prior art; there is not evidence in the record sufficient to demonstrate public availability; no individual with knowledge has submitted evidence showing that ISDU was publicly available.
1014	FRE 106, 402, 403, 602, 701, 702, 703, 705, 802, 901, 1002 Petitioner relies on Smith to read in a separate, unreferenced “Figaro” product that CP relies upon. Figaro 816 has not been shown to be prior art, is not supported by evidence in the record to be the type of product CP states it is, and CP has offered no one with knowledge regarding the alleged Figaro product or its availability.
1015	FRE 106, 402, 403
1016	FRE 106, 402, 403, 901, 1002
1020	FRE 106, 402, 403

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1021	FRE 106, 402, 403
1022	FRE 106, 402, 403
1023	<u>37 C.F.R. §§ 42.24(a) and 42.6(a)(3):</u> ¶ 1 in which Petitioner attempted to improperly incorporated by reference an inapplicable prior declaration in its entirety, including portions related to documents not submitted as part of this proceeding. <u>37 C.F.R. §§ 42.51(c):</u> ¶¶ 16-17; Appendix F; Appendix G; Appendix H discuss things that have not been made available for inspection. <u>FRE 702, 703, 37 C.F.R. §§ 42.65(a) and (b)</u> ¶¶ 4, 8, 10, 15, 16-18, 19, 39, 53, 58, 62, 65, 66, 72, 74-75, 80, 81, 94, 95, 105, 131, 156, 167, 174, 191, 192, 194, 195, 199, 203-204, 214, 223, 226-227, 231, 248, 249, 251, 254; Appendix F; Appendix G; Appendix H. These are not based on sufficient facts or data, do not disclose underlying facts or data, rely on documents and exhibits not before the Patent Trial and Appeal Board, do not sufficiently explain the test or data in accordance with 42.65(b), and/or are not the product of reliable scientific principles and methods. <u>FRE 602, 701, 702, 703, 802:</u> ¶¶ 5, 39, 72, 77, 105, 113-114, 203, 205-206, 254 are not based any qualified expert's testimony, not based on personal knowledge, rely on or contain hearsay, and are improper lay witness opinion testimony. <u>FRE 402, 403:</u> ¶¶ 1, 4, 7, 8, 10, 15, 16-18, 19, 38, 39, 50, 53, 58, 62, 65, 66, 72, 74-75, 76, 77, 80, 81, 82, 83, 94, 95, 105, 106, 107-112, 113, 118-119, 120, 130-134, 135-136, 140.1-140.3, 156, 157, 167, 173, 191, 192, 203-204, 205-206, 214, 215-216, 223, 224-225, 248, 249, 251, 253, 254, 256, 257, 259, 261, 262; Appendix F; Appendix G; Appendix H.

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CERTIFICATE OF SERVICE

Per agreement of the parties and pursuant to 37 C.F.R. ¶ 42.105(b), the undersigned certifies that a copy of this Patent Owner's Objections to Petitioner's Exhibit List and Expert Reports was served on April 24, 2024, by email on the following:

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