

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SHARP CORPORATION, SHARP ELECTRONICS CORPORATION, and
SHARP ELECTRONICS MANUFACTURING
COMPANY OF AMERICA, INC.,
Petitioner,

v.

SURPASS TECH INNOVATION LLC,
Patent Owner.

Case IPR2015-00021
Patent No. 7,202,843 B2

**PETITIONER'S OBJECTIONS TO PATENT OWNER'S EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

Pursuant to 37 C.F.R. § 42.64(b)(1), Sharp Corporation, Sharp Electronics Corporation, and Sharp Electronics Manufacturing Company of America, Inc. (collectively, “Sharp” or “Petitioner”) hereby submits the following objections to the evidence served on June 11, 2015 by Patent Owner Surpass Tech Innovation LLC (“Surpass” or “Patent Owner”) with Patent Owner Surpass Tech Innovation LLC’s Response Under 37 C.F.R. § 42.120 (Paper 20).

General Objections

1. Sharp objects to the admissibility of the Declaration of William K. Bohannon (Ex. 2005, “Mr. Bohannon’s Declaration”) under Rules 702 and 703 of the Federal Rules of Evidence (“F.R.E.”) for failing to establish that he is qualified to provide the opinions offered. Mr. Bohannon also fails to provide any basis for many of his opinions. Thus, Mr. Bohannon’s Declaration is inadmissible as lacking the requisite underlying “sufficient facts or data” of F.R.E. 702(b), is not “the product of reliable principles and methods” under F.R.E. 702(c), and does not result from the reliable application of principles or methods to any related facts under F.R.E. 702(d). *See also Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993); 37 C.F.R. § 42.65.

2. Sharp further objects to the relevance of Mr. Bohannon’s Declaration under F.R.E. 402. Mr. Bohannon’s Declaration consists of mere speculation and conclusory statements, which are not relevant.

3. Sharp reserves the right to present further objections, as allowed by the applicable rules or other authority.

Specific Objections

In addition to the foregoing General Objections, Sharp makes the following specific objections to Mr. Bohannon's Declaration. Since Patent Owner's Response cites to Mr. Bohannon's Declaration, these objections also apply to Patent Owner's Response.

1. Sharp objects to Mr. Bohannon's Declaration as failing to disclose Mr. Bohannon's experience as an expert witness and the history of his prior testimony and depositions, as required by F.R.Civ.P. 26(a)(2). Mr. Bohannon's *curriculum vitae* attached to Ex. 2005 as Appendix A refers to an "Addendum" for his litigation related experience, but no such "Addendum" was submitted by Surpass.

2. Sharp objects to Paragraphs 14, 18-23, 25, 27-30 and 32-35 as failing to comply with the requirements for amending claims set forth in 35 U.S.C. § 316(d) and 37 C.F.R. § 42.121. Specifically, through Mr. Bohannon, Surpass improperly seeks to amend the claims-at-issue, including introducing additional claim elements, under the guise of claim construction. Specifically, Surpass seeks to construe the phrase "to control a transmission rate of the liquid crystal device of the panel" of Claim 4 to further require the performance of an "overdriving"

technique. (*See, e.g.*, Ex. 2005, ¶¶26-30). This proposed construction, which seeks to add a limitation to the claims, is an improper attempt to bypass the Rules for amending claims, which, among other things, require Surpass to: (1) confer with the Board regarding the proposed amendment; and (2) file a motion to amend that complies with the requirements of 37 C.F.R. § 42.121(a)-(b). Surpass has not taken any of these steps, and is now precluded from doing so under 37 C.F.R. § 42.121(a)(1).

3. Sharp objects to Paragraphs 14, 18-23, 25, 27-30 and 32-35 of Mr. Bohannon's Declaration under F.R.E. 402, 701, 702 and 703 as conclusory and unsupported by any facts or data and thus irrelevant and unrelated to the issues at hand. For instance, in the above paragraphs, Mr. Bohannon discusses an "overdriving" technique that is legally irrelevant to the claims-at-issue. Mr. Bohannon then draws improper legal and factual conclusions based upon these irrelevant facts, rendering his opinion unsupported and, thus, unreliable.

4. Sharp objects to Mr. Bohannon's Declaration as failing to comply with the requirements for a declaration in lieu of oath under 37 C.F.R. § 1.68.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN
LLP

Attorneys for Petitioner
90 Park Avenue
New York, NY 10016
(212) 336-8000

Dated: June 18, 2015
New York, New York

By: /Anthony F. Lo Cicero/
Anthony F. Lo Cicero
Registration No.: 29,403

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.