

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ASML NETHERLANDS B.V., EXCELITAS TECHNOLOGIES CORP., AND
QIOPTIQ PHOTONICS GMBH & CO. KG,
Petitioners

v.

ENERGETIQ TECHNOLOGY, INC.,
Patent Owner

Case IPR2015-01277
Patent No. 8,309,943

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

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Energetiq Technology, Inc. objects to the admissibility of Petitioner's Exhibit 1002. The bases of the objection are:

- a. The exhibit is incomplete and may result in unfair prejudice, confusing the issues, misleading the factfinder, undue delay, and/or wasting time under Fed. R. Evid. 403.
- b. The exhibit is hearsay under Fed. R. Evid. 802.
- c. The exhibit is not authenticated under Fed. R. Evid. 901.

Patent Owner also objects to the admissibility of Petitioner's Exhibit 1003 ("Gärtner"). The bases of the objection are:

- a. The English Translation in the exhibit is inaccurate and may result in unfair prejudice, confusing the issues and/or misleading the factfinder under Fed. R. Evid. 403.

Patent Owner also objects to the admissibility of Petitioner's Exhibit 1004 ("Hiura"). The bases of the objection are:

- a. The exhibit is not relevant to this proceeding under Fed. R. Evid. 401 and 402. Any facts within Exhibit 1004 are not "of consequence in determining

the action” as the Board declined to institute *inter partes* review based on Hiura. Fed. R. Evid. 401; Institution Decision at 13.

- b. The exhibit may result in unfair prejudice, confusing the issues, misleading the factfinder, undue delay, and/or wasting time under Fed. R. Evid. 403.

Patent Owner also objects to the admissibility of Petitioner’s Exhibit 1007.

The bases of the objection are:

- a. The exhibit is hearsay under Fed. R. Evid. 801 and inadmissible under Fed. R. Evid. 802.
- b. The exhibit is not authenticated under Fed. R. Evid. 901.
- c. There is no admissible evidence regarding the date or the manner in which the exhibit was made available to the public, if ever, and it therefore does not constitute prior art.

Patent Owner also objects to the admissibility of Petitioner’s Exhibit 1008.

The bases of the objection are:

- a. The exhibit is hearsay under Fed. R. Evid. 801 and inadmissible under Fed. R. Evid. 802.
- b. The exhibit is not authenticated under Fed. R. Evid. 901.

Patent Owner also objects to the admissibility of Petitioner's Exhibit 1011.

The bases of the objection are:

- a. The exhibit is redacted and incomplete, which may result in unfair prejudice, confusing the issues, and/or misleading the factfinder under Fed. R. Evid. 403.

Patent Owner also objects to the admissibility of Petitioner's Exhibit 1012.

The bases of the objection are:

- a. The exhibit is redacted and incomplete, which may result in unfair prejudice, confusing the issues, and/or misleading the factfinder under Fed. R. Evid. 403.

Patent Owner also objects to the admissibility of Petitioner's Exhibit 1013.

The bases of the objection are:

- a. The exhibit is redacted and incomplete, which may result in unfair prejudice, confusing the issues, and/or misleading the factfinder under Fed. R. Evid. 403.

IPR2015-01277
Patent No. 8,309,943

This objection is made within 10 business days from the November 30, 2015 institution of trial. Patent Owner expressly reserves the right to file a motion to exclude portions of, or the entirety of, the exhibits referenced herein.

Respectfully submitted,
PROSKAUER ROSE LLP

/ Joseph A. Capraro Jr. Reg. No. 36,471 /
Joseph A. Capraro Jr., Reg. No. 36,471
Attorney for Patent Owner

Date: December 14, 2015
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