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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VIZIO, INC., Petitioner,

v.

NICHIA CORPORATION, Patent Owner.

> Case IPR2018-00386 Patent 9,490,411

PATENT OWNER'S SUR-REPLY

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TABLE OF AUTHORITIES

Cases

Liebel-Flarsheim Co. v. Medrad, Inc., 358 F.3d 898 (Fed. Cir. 2004)1

EXHIBIT LIST

Exhibit	Description
2001	Declaration of Dr. Stanley R. Shanfield, dated June 16, 2017, in IPR2017-01608 (Ex. 1003 in that IPR).
2002	Declaration of Dr. Stanley R. Shanfield, dated June 16, 2017, in IPR2017-01623 (Ex. 1103 in that IPR).
2003	Dandan Zhu and Colin J. Humphreys, Solid-State Lighting Based on Light Emitting Diode Technology, Chapter 5 (2016).
2004	Sheng Liu and Xiaobing Luo, LED Packaging for Lighting Applications: Design, Manufacturing and Testing, Chemical Industry Press (2011).
2005	Petition for <i>Inter Partes</i> Review of U.S. Patent No. 9,537,071 in IPR2018-00437, dated January 12, 2018.
2006	U.S. Patent No. 9,537,071.
2007	Vizio Holdings, Inc.'s Amendment No. 3 to Form S-1 Registration Statement, filed with the Securities and Exchange Commission on October 22, 2015 (retrieved from http://secfilings.nasdaq.com/filingFrameset.asp?FilingID=1096439 2&RcvdDate=10/22/2015&CoName=VIZIO%20HOLDINGS%2 C%20INC.&FormType=S- 1/A&View=html%20September%2026,%202016%20Disc\Internet %20articles\FetchF%20VIZIO(4).pdf).
2008	Westlaw Company Investigator Reports for Vizio, Inc., AmTran Logistics Company and AmTran Logistics Inc. Company.
2009	Declaration of Dr. Stanley R. Shanfield, dated January 12, 2018, in IPR2018-00437 (Ex. 1003 in that IPR).
2010	Transcript of Teleconference in IPR2017-01608 and IPR2017-01623, dated February 28, 2018 (Ex. 2029 and Ex. 2129 respectively, in those IPRs).
2011	Declaration of Dr. E. Fred Schubert, dated September 18, 2018.

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Exhibit	Description
2012	Japanese Patent Publication No. JP2007-235085 ("Urasaki") with Certified English Translation in IPR2017-01608 and IPR2017- 01623 (Exs. 1007 and 1107 respectively, in those IPRs).
2013	Transcript of Stanley R. Shanfield, Ph.D. Deposition, dated May 21, 2018, taken in IPR2017-01608, IPR2017-01623, IPR2018-00893, IPR2017-02011, IPR2017-02014 (Ex. 2710 in IPR2017-01608 and IPR2017-01623).
2014	E. Chen, "III. Wet and Dry Etching," Harvard University Center for Imaging and Mesoscale Structures (2004) (retrieved from https://www.mrsec.harvard.edu/education/ap298r2004/Erli%20che n%20Fabrication%20III%20-%20Etching.pdf).
2015	Exhibit B to Complaint for Patent Infringement, <i>Nichia Corp. v.</i> <i>Vizio, Inc.</i> , Case No. 2:16-cv-00246, Dkt. 1-2 (E.D. Tex. Mar. 21, 2016) [Copy of Memorandum Opinion and Order, <i>Nichia Corp. v.</i> <i>Everlight Elecs. Co.</i> , Case No. 2:13-cv-00702-JGR, Dkt. 193 (E.D. Tex. Jan. 26, 2016)].
2016	EXHIBIT NUMBER NOT BEING USED
2017	EXHIBIT NUMBER NOT BEING USED
2018	EXHIBIT NUMBER NOT BEING USED
2019	EXHIBIT NUMBER NOT BEING USED
2020	Transcript of Teleconference in IPR2018-00386 and IPR2018-00437, dated January 17, 2019.
2021	Transcript of Stanley R. Shanfield, Ph.D. Deposition, dated December 19, 2018.
2022	Exhibit S1 from December 19, 2018 Deposition of Stanley R. Shanfield, Ph.D.
2023	Exhibit S2 from December 19, 2018 Deposition of Stanley R. Shanfield, Ph.D.

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