

Filed on behalf of: Nichia Corp.

Paper \_\_\_\_\_

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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VIZIO, INC.,  
Petitioner,

v.

NICHIA CORP.,  
Patent Owner.

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Case IPR2018-00437  
Patent 9,537,071

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**PATENT OWNER'S OBJECTIONS TO EVIDENCE FILED  
WITH PETITION OF VIZIO, INC. PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Nichia Corp. (“Patent Owner”) hereby files the following objections to evidence filed in support of Petitioner Vizio, Inc.’s (“Petitioner”) Petition for *Inter Partes Review* of U.S. Patent No. 9,537,071. Pursuant to 37 C.F.R. § 42.62, Patent Owner’s objections below apply the Federal Rules of Evidence (“FRE”) and the Office Trial Practice Guide, 77 Fed. Reg. 48,756-73 (Aug. 14, 2012).

Patent Owner’s objections and the basis for each objection are below.

<b>Evidence Submitted by Petitioner</b>	<b>Patent Owner's Objections</b>
<p><b>Ex. 1003</b> Declaration of Dr. Stanley R. Shanfield</p>	<p><b>Fed. R. Evid. 701/702/703 (Inadmissible as unreliable and improper opinion and expert testimony):</b> Declarant's testimony with reference to Ex. 1009 (Japanese Patent Publication No. JP2006-093697 ("Park '697") with Certified English Translation) is not reliable, and any opinion and/or expert testimony of Declarant based thereon is not based on sufficient facts or data; has not applied reliable principles and methods; and/or has not reliably applied such principles and methods to the facts of the case. In addition, Declarant is not qualified as an expert, and lacks the knowledge, skill, experience, training, or education to testify as an expert in a manner that is helpful to the Board. Declarant has testified to and relied on an improper translation.</p> <p><b>Fed. R. Evid. 401/402/403 (Inadmissible as irrelevant, unfairly prejudicial, tending to confuse the issues, and a waste of time):</b> The exhibit is irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402. Declarant is not qualified as an expert. To the extent this exhibit has any marginal relevance, it should be excluded under FRE 403 as unfairly prejudicial, tending to confuse the issues, and/or a waste of time.</p>

<b>Evidence Submitted by Petitioner</b>	<b>Patent Owner's Objections</b>
<p><b>Ex. 1009</b> Japanese Patent Publication No. JP2006-093697 ("Park '697") with Certified English Translation</p>	<p><b>Fed. R. Evid. 901 (Inadmissible as lacking authenticity):</b> Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims.</p> <p><b>Fed. R. Evid. 802 (Inadmissible as improper hearsay):</b> The exhibit is inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein, including, without limitation, any alleged translation.</p> <p><b>Fed. R. Evid. 401/402/403 (Inadmissible as irrelevant, unfairly prejudicial, tending to confuse the issues, and a waste of time):</b> The exhibit is irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402. To the extent this exhibit has any marginal relevance, it should be excluded under FRE 403 as unfairly prejudicial, tending to confuse the issues, and/or a waste of time. The exhibit includes an improper translation and is unreliable.</p>

Evidence Submitted by Petitioner	Patent Owner's Objections
<p><b>Ex. 1015</b> Declaration of Mary Oros in Support of Petition for <i>Inter Partes Review</i> of U.S. Patent No. 9,537,071</p>	<p><b>Fed. R. Evid. 701/702/703 (Inadmissible as unreliable and improper opinion and expert testimony):</b> Declarant's testimony with reference to Ex. 1009 (Japanese Patent Publication No. JP2006-093697 ("Park '697") with Certified English Translation) is not reliable, and any opinion and/or expert testimony of Declarant based thereon is not based on sufficient facts or data; has not applied reliable principles and methods; and/or has not reliably applied such principles and methods to the facts of the case. In addition, Declarant is not qualified as an expert, and lacks the knowledge, skill, experience, training, or education to testify as an expert in a manner that is helpful to the Board. Declarant has testified to and relied on an improper translation.</p> <p><b>Fed. R. Evid. 401/402/403 (Inadmissible as irrelevant, unfairly prejudicial, tending to confuse the issues, and a waste of time):</b> The exhibit is irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402. Declarant is not qualified as an expert. To the extent this exhibit has any marginal relevance, it should be excluded under FRE 403 as unfairly prejudicial, tending to confuse the issues, and/or a waste of time.</p>

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