

Filed on behalf of: Nichia Corporation

Paper _____

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Date filed: January 8, 2019

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VIZIO, INC.,
Petitioner,

v.

NICHIA CORPORATION,
Patent Owner.

Case IPR2018-00437
Patent 9,537,071

**SECOND DECLARATION OF DR. E. FRED SCHUBERT IN SUPPORT OF
PATENT OWNER'S CONTINGENT MOTION TO AMEND**

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I. INTRODUCTION

1. My name is E. Fred Schubert, and I have been retained by counsel for Patent Owner, Nichia Corporation (“Nichia”), to serve as an expert witness in the above-captioned proceeding based on a Petition for *Inter Partes* Review (“IPR”) filed by VIZIO, Inc. (the “Vizio Petition” or the “Petition”), which challenges certain claims in Nichia’s U.S. Patent No. 9,537,071 (the “’071 Patent”).

2. I previously submitted a declaration in support of the Patent Owner’s Contingent Motion to Amend in the IPR. I understand that this second declaration will be submitted in support of the Patent Owner’s Reply to Petitioner’s Opposition to Patent Owner’s Contingent Motion to Amend.

3. The facts and opinions I have expressed herein are true and accurate to the best of my knowledge and understanding based on the information I have reviewed to date.

II. QUALIFICATIONS

4. My qualifications are the same as detailed in my earlier declaration in support of the Patent Owner’s Contingent Motion to Amend and in support of Patent Owner’s Response, submitted on September 18, 2018. *See, e.g.*, Ex. 2008, Appendix A (curriculum vitae).

III. MATERIALS CONSIDERED

5. In preparation of this declaration and the opinions set forth herein, I have considered the Petition filed by VIZIO and the supporting exhibits, including Dr. Shanfield's declaration, and the references relied on in the Petition and Dr. Shanfield's declaration. I have also considered Petitioner's Opposition to Patent Owner's Motion to Amend and Dr. Shanfield's declaration in support thereof, and the references and materials relied on therein. In addition, I have also considered the documents, data, and other information mentioned in and cited to herein, the cross-examination testimony of Dr. Shanfield, and the Exhibits accompanying Nichia's Patent Owner Response and Nichia's Contingent Motion to Amend. Further, I have reviewed the Board's Institution Decision. My opinions are also based upon my knowledge, education, experience, research, and training in this field that I have accumulated over the course of my career.

IV. SUMMARY OF OPINIONS

6. It is my opinion that the proposed substitute claims have written description support in both U.S. Patent Application Serial No. 12/737,940 (the "'940 Application"; Ex. 2023) and JP2008-225408 (the "JP '408 Application"; Ex. 2021). For the same reason, it is my opinion that the proposed substitute claims do not recite any new matter not disclosed in the two priority documents. Petitioner's

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