

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

GUARDANT HEALTH, INC.  
Petitioner,

v.

UNIVERSITY OF WASHINGTON,  
Patent Owner.

---

Case IPR2022-00817  
U.S. Patent No. 10,760,127

---

**PATENT OWNER'S OBJECTIONS  
TO PETITIONER'S REPLY EVIDENCE**

***Mail Stop "PATENT BOARD"***  
Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Patent Owner, University of Washington, objects under the Federal Rules of Evidence (FRE) and 37 C.F.R. § 42.64(b)(1) to the admissibility of Exhibit 1035 and at least certain portions of Exhibits 1033 and 1039 (collectively, the “Challenged Evidence”), filed by Petitioner Guardant Health, Inc. on April 13, 2023, with its Petitioner’s Reply. Patent Owner timely files its Objections within five business days of the date of service of the Challenged Evidence. 37 C.F.R. § 42.64(b)(1). Patent Owner files these Objections to provide notice to Petitioner that Patent Owner reserves the right to move to exclude the Challenged Evidence under 37 C.F.R. § 42.64(c).

## **I. IDENTIFICATION OF GROUNDS FOR OBJECTIONS**

### **A. Exhibit 1033**

Exhibit 1033 is the Declaration of Dr. Andres Larrea. Patent Owner objects to paragraphs 1–7 of Exhibit 1033 under FRE 402 and 403. Petitioner does not rely on or even cite these declaration paragraphs in its Petition, rendering Dr. Larrea’s testimony in these paragraphs irrelevant under FRE 401. Patent Owner therefore objects to these paragraphs under FRE 402. Patent Owner also objects to this testimony under FRE 403 because it has no probative value, creates unfair prejudice to Patent Owner, and will confuse the issues and waste the Board’s time.

Patent Owner also objects to paragraphs 8–12, 15–28, and 34 of Exhibit 1033 under FRE 702, because Dr. Larrea’s testimony in at least these paragraphs is

not based on sufficient facts or data. Thus, Dr. Larrea’s testimony will not help the trier of fact understand the evidence or determine a fact in issue. *See* FRE 702; *see also*, 37 C.F.R. § 42.65. Nor does it provide any probative value that would substantially outweigh its prejudicial effect. *See* FRE 703.

**B. Exhibit 1035**

Exhibit 1035 is a document entitled, “Pacific Biosciences Template Preparation and Sequencing Guide.” Patent Owner objects to Exhibit 1035 under FRE 901 because Petitioner fails to provide sufficient evidence indicating the origin or publication of the document, and accordingly fails to provide sufficient information regarding its authenticity. Exhibit 1035 is not a self-authenticating document under FRE 902.

Patent Owner also objects to Exhibit 1035 under FRE 401 and 403. Petitioner has not established that Exhibit 1035 is a prior-art publication that was available to the public. Therefore, Exhibit 1035 is inadmissible as not relevant.

Patent Owner also objects to Exhibit 1035 as containing inadmissible hearsay under FRE 801 and 802. Petitioner relies on Exhibit 1035 for the truth of the matter asserted. *See e.g.*, Petitioner’s Reply, at 16–20, 23. Exhibit 1035 does not fall under any of the exceptions, *e.g.*, FRE 803, 804, 805, and 807.

**C. Exhibit 1039**

Exhibit 1039 is the Declaration of Dr. John Quackenbush. Patent Owner

objects to paragraphs 19, 22, 24, 29–31, and 35 of Exhibit 1039 under FRE 702, because Dr. Quackenbush’s testimony in at least these paragraphs is not based on sufficient facts or data. Thus, Dr. Quackenbush’s testimony will not help the trier of fact understand the evidence or determine a fact in issue. *See* FRE 702; *see also*, 37 C.F.R. § 42.65. Nor does it provide any probative value that would substantially outweigh its prejudicial effect. *See* FRE 703.

## **II. CONCLUSION**

Patent Owner’s objections to the Challenged Evidence are timely. Patent Owner therefore reserves the right to move to exclude the Challenged Evidence pursuant to 37 C.F.R. § 42.64(c).

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

/R. Wilson Powers III /

Date: April 20, 2023  
1100 New York Avenue, NW  
Washington, DC 20005  
(202) 371-2600

R. Wilson Powers III, Ph.D.  
Registration No. 63,504  
Lead Attorney for Patent Owner

**CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))**

The undersigned hereby certifies that the above-captioned “**PATENT OWNER’S OBJECTIONS TO PETITIONER’S REPLY EVIDENCE**” was served in its entirety on April 20, 2023, upon the following parties via email:

Michael T. Rosato  
Jad A. Mills  
Sonja R. Gerrard  
Patrick M. Medley  
WILSON SONSINI GOODRICH & ROSATI  
701 Fifth Avenue, Suite 5100  
Seattle, WA 98104  
[mrosato@wsgr.com](mailto:mrosato@wsgr.com)  
[jmills@wsgr.com](mailto:jmills@wsgr.com)  
[sgerrard@wsgr.com](mailto:sgerrard@wsgr.com)  
[pmedley@wsgr.com](mailto:pmedley@wsgr.com)

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

/R. Wilson Powers III /

Dated: April 20, 2023  
1100 New York Avenue, NW  
Washington, DC 20005  
(202) 371-2600

R. Wilson Powers III, Ph.D.  
Registration No. 63,504  
Lead Attorney for Patent Owner