

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZF NORTH AMERICA, INC., ZF ACTIVE SAFETY US INC.,
Petitioners

v.

STONERIDGE CONTROL DEVICES, INC.,
Patent Owner

Patent No. 7,021,415

Inter Partes Review No.: IPR2023-00273

**PETITIONER'S OBJECTIONS TO EXHIBITS IN PATENT OWNER'S
RESPONSE**

The ZF entities (“Petitioner”) hereby makes the following objections pursuant to 37 C.F.R. § 42.64(b):

Exhibit No.	Section	Objections
2005	Section XII: Secondary Considerations (Paragraphs 160-166)	Petitioner objects to the indicated section under Fed. R. Evid. 401, 402, 403, 702, 703, 801, and 802 because Dr. Stein’s testimony at this section: (i) will not help the Board understand the evidence or determine a fact in issue; (ii) is irrelevant; (iii) lacks probative value and its probative value is substantially outweighed by the risk of undue prejudice, confusion, misleading of the factfinder, and wasting time; (iv) is not within the expertise of the witness, is not the product of reliable principles and methods that have been reliably applied to the facts of the case, and is not based on sufficient facts or data. <i>See</i> Fed. R. Evid. 702. The indicated section includes unsupported statements that lack sufficient foundation and conclusions that are outside of his expertise or knowledge. <i>Id.</i> Dr. Stein bases his testimony on alleged factual underpinnings that he has no basis for believing and which he has not properly

		investigated to determine their truth. He also bases his opinions on materials having no nexus to the claimed invention, and he has no basis for assuming, alleging, or concluding that any nexus exists.
2005	Paragraphs 1-52, 68, 77, 99, 113, 148, 160-62, 164	Petitioner objects to the indicated paragraphs as lacking relevance under Fed. R. Evid. 401, 402, and 403. Specifically, the Patent Owner Response does not rely on or cite to these paragraphs in any manner. Accordingly, the paragraphs (a) lack any tendency to make a material fact more or less probable than it would be without the paragraphs; (b) are irrelevant; and (c) could confuse the issues and cause unfair prejudice. <i>See</i> Fed. R. Evid. 401, 402, and 403. To the extent Patent Owner attempts to rely on these paragraphs in the future as evidence in support of new substantive positions, doing so would be untimely, in violation of the applicable rules governing this proceeding, and unfairly prejudicial to Petitioner. <i>See</i> Fed. R. Evid. 403.

2009	Entirety	Petitioner objects to this exhibit in its entirety under Fed. R. Evid. 401, 402, 403, 801, 802, and 901. Patent Owner cites to the exhibit to support the allegation that the allegedly infringing product is standard in vehicle lines with household names, but offers no explanation as to what the document is or any support for its authenticity. Thus, Exhibit 2009 lacks proper authentication. <i>See</i> Fed. R. Evid. 901. Furthermore, the exhibit is a statement made outside the current trial or hearing offered to prove the truth of the matter asserted (namely, that an unidentified park brake actuator could be purchased for Jeep Cherokees), and thus constitutes inadmissible hearsay. <i>See</i> Fed. R. Evid. 801, 802. Exhibit 2009 does not meet any exception provided under Fed. R. Evid 803-804 and 807. Finally, the subject matter of Exhibit 2009 is unclear and (a) lacks any tendency to make a material fact more or less probable than it would be without the exhibit; (b) is irrelevant; and (c) could confuse the issues and cause unfair prejudice. <i>See</i> Fed. R. Evid. 401, 402, and 403.
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2010	Entirety	Petitioner objects to this exhibit in its entirety under Fed. R. Evid. 401, 402, 403, 801, 802, and 901. Specifically, Exhibit 2010 is purportedly a press release that generally relates to sales of EPB and IPB technology, but the release is not tied to the alleged invention or the accused products in particular. The Patent Owner fails to identify any discussion in Exhibit 2010 that specifically deals with the alleged invention, and instead cites only to discussions of Petitioner's success in selling brake systems integrating EPB technology generally. <i>See</i> Patent Owner's Response, Section VI.B. Accordingly, the exhibit (a) lacks any tendency to make a material fact more or less probable than it would be without the paragraphs; (b) is irrelevant; and (c) could confuse the issues and cause unfair prejudice. <i>See</i> Fed. R. Evid. 401, 402, and 403. Additionally, the exhibit is a statement made outside the current trial or hearing offered to prove the truth of the matter asserted (namely, that the EPB units produced are a "great success story" and sold over 200
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		million units), and thus constitutes inadmissible hearsay. <i>See</i> Fed. R. Evid. 801, 802. Exhibit 2009 does not meet any exception provided under Fed. R. Evid 803-804 and 807. Furthermore, Patent Owner has not offered any foundation for the exhibit's admissibility and the exhibit lacks foundation and lacks proper authentication under Fed. R. Evid. 901.
2011	Entirety	Petitioner objects to this declaration in its entirety under Fed. R. Evid. 401, 402, 403, 602, 701, 801, 802, and 901. Specifically, Mr. Rolf Patrick's testimony regarding the alleged presentation by SRI to TRW is not rationally based on his perception or personal knowledge and is instead impermissible speculation and/or hearsay, and also includes improper expert testimony from a fact witness that purports to rely on scientific, technical, or other specialized knowledge that would be the subject of expert testimony. <i>See</i> Fed. R. Evid. 602, 701, 801, 802. At paragraph 4, Mr. Patrick admits that he did not attend any alleged

		presentation. ¶ 4. Accordingly, to the extent Patent Owner attempts to rely on this declaration as evidence for what occurred during the alleged presentation to TRW, Mr. Patrick’s testimony lacks foundation and is based on statements that constitute inadmissible hearsay because he did not attend the alleged presentation and could have no personal knowledge of what occurred at the presentation, including, for example, what was said, by whom, and the reaction or knowledge of any attendee. <i>See</i> Fed. R. Evid. 602, 801, 802. Mr. Patrick’s testimony also opines on what the “current design” of TRW’s EPBA was in 2003, and on the alleged presence of TRW’s current design in the Audi A8 in the same year. <i>See</i> ¶ 9. Mr. Patrick was not involved in TRW’s EPBA design in 2003, nor does he appear to have any personal knowledge of what EPB systems may or may not have been included in the Audi A8 in 2003. Thus, Mr. Patrick’s testimony regarding these matters is not rationally based on his perception
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		or personal knowledge and is instead impermissible speculation and/or hearsay. <i>See</i> Fed. R. Evid. 602, 701, 801, 802. Additionally, Mr. Patrick does not appear to be an expert or a POSITA and does not claim to be one. <i>See</i> ¶¶ 2-3. Nevertheless, Exhibit 2011 includes testimony throughout paragraphs 5-13 requiring scientific, technical, or other specialized knowledge within the scope of Rule 702 that is outside the scope of proper opinion testimony by a lay witness. <i>See</i> Fed. R. Evid. 701, 702. For example, Mr. Patrick describes that an EPBA design included in the exhibit “lacks a sub-frame, and likewise lacks any vibration isolators mounted between the non-existent sub-frame and gear set or motor,” an opinion that is based on scientific and technical knowledge within the scope of Rule 702. <i>See</i> ¶ 9-10. Therefore, any argument offered by the Patent Owner that relies on this declaration to prove (1) what might have occurred during the alleged presentation and/or (2) the scientific or technical details included in
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		the alleged Stoneridge presentation deck (Ex. 2012) or regarding the various actuators Mr. Patrick opines about should be disregarded and/or struck entirely because it would include inadmissible testimony and (a) lack any tendency to make a material fact more or less probable than it would be without the exhibit; (b) is irrelevant; and (c) could confuse the issues and cause unfair prejudice. <i>See</i> Fed. R. Evid. 401, 402, 403, 602, 701, 801, and 802. Lastly, Exhibit 2011 includes several unauthenticated images that are referenced in Mr. Patrick’s testimony. <i>See, e.g.,</i> ¶¶ 10-12, Appendix. Patent Owner has not offered any foundation for the images’ admissibility and the images lack foundation and lack proper authentication under Fed. R. Evid. 901. Additionally, it is unclear how Mr. Patrick allegedly knows what these unauthenticated images are, and thus any testimony relying on these images is impermissible speculation and/or hearsay. <i>See</i> Fed. R. Evid. 602, 701, 801, 802. It is not clear that these images are in any way tied to the
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		current proceeding, and thus they (a) lack any tendency to make a material fact more or less probable than it would be without the exhibit; (b) are irrelevant; and (c) could confuse the issues and cause unfair prejudice. <i>See</i> Fed. R. Evid. 401, 402, 403.
2012	Entirety	Petitioner objects to this exhibit in its entirety under Fed. R. Evid. 401, 402, 403, 801, 802, and 901. Patent Owner has not offered proper foundation for the exhibit's admissibility and the exhibit lacks foundation and lacks proper authentication under Fed. R. Evid. 901. The exhibit is also a written assertion made outside of the current trial and offered to prove the truth of the matter asserted (e.g., technical information related to an electric park brake actuator), and thus constitutes inadmissible hearsay. <i>See</i> Fed. R. Evid. 801, 802. Further, the design allegedly shown in the presentation has no relevance to the claimed invention or any issue in these proceedings. Accordingly, the exhibit (a) lacks any tendency to make a material fact more or less probable than it would be without the

		paragraphs; (b) are irrelevant; and (c) could confuse the issues and cause unfair prejudice. <i>See</i> Fed. R. Evid. 401, 402, and 403.
2014	Entirety	Petitioner objects to this exhibit in its entirety as lacking relevance under Fed. R. Evid. 401, 402, and 403 and lacking proper authentication under Fed. R. Evid. 901. Patent Owner has not provided any evidence supporting what this exhibit might be, and thus this exhibit lacks proper authentication under Fed. R. Evid. 901. Patent Owner does not rely on or cite to this exhibit in the Patent Owner's Response. Additionally, as stated above, this exhibit lacks proper authentication, and thus there is no indication that this exhibit is relevant to the current proceeding. Accordingly, the exhibit (a) lacks any tendency to make a material fact more or less probable than it would be without the paragraphs; (b) is irrelevant; and (c) could confuse the issues and cause unfair prejudice. <i>See</i> Fed. R. Evid. 401, 402, and 403.

2015	Entirety	Petitioner objects to this exhibit in its entirety as lacking relevance under Fed. R. Evid. 401, 402, and 403 and lacking proper authentication under Fed. R. Evid. 901. Patent Owner has not provided any evidence supporting what this exhibit might be, and thus this exhibit lacks proper authentication under Fed. R. Evid. 901. Patent Owner does not rely on or cite to this exhibit in the Patent Owner's Response. Additionally, as stated above, this exhibit lacks proper authentication, and thus there is no indication that this exhibit is relevant to the current proceeding. Accordingly, the exhibit (a) lacks any tendency to make a material fact more or less probable than it would be without the paragraphs; (b) is irrelevant; and (c) could confuse the issues and cause unfair prejudice. <i>See</i> Fed. R. Evid. 401, 402, and 403.
2016	Entirety	Petitioner objects to this exhibit in its entirety as lacking relevance under Fed. R. Evid. 401, 402, and 403 and lacking proper authentication under Fed. R. Evid. 901. Patent Owner has not offered any evidence

		supporting what the items in the images included in this exhibit are, and thus the exhibit lacks proper authentication under Fed. R. Evid. 901. This exhibit, a chart showing claim language next to images and text presumably produced by Patent Owner, is not the kind of evidence that is self-authenticating under Fed. R. Evid. 902. Because it is unclear whether the images included in this exhibit represent the allegedly infringing products, the exhibit (a) lacks any tendency to make a material fact more or less probable than it would be without the paragraphs; (b) are irrelevant; and (c) could confuse the issues and cause unfair prejudice. <i>See</i> Fed. R. Evid. 401, 402, and 403.
2017	Entirety	Petitioner objects to this exhibit in its entirety under Fed. R. Evid. 401, 402, 403, 801, 802, and 901. Specifically, Exhibit 2017 allegedly provides speculations about the EPB market by 2032 and is not tied to the claimed invention. For example, the Patent Owner cites to a single reference to a company related to Petitioner as a “key company” in the EPBA space to

		allegedly support a showing of commercial success of the invention, but the exhibit makes no mention of the alleged invention itself. <i>See</i> Patent Owner’s Response, p. 62; Exhibit 2017. Accordingly, the exhibit (a) lacks any tendency to make a material fact more or less probable than it would be without the paragraphs; (b) are irrelevant; and (c) could confuse the issues and cause unfair prejudice. <i>See</i> Fed. R. Evid. 401, 402, and 403. Petitioner also objects to this exhibit in its entirety as inadmissible hearsay under Fed. R. Evid. 801 and 802. Patent Owner offers Exhibit 2017 as evidence to prove the truth of the matter asserted in the document – namely, that Petitioner is a “key player” in the EPB market. <i>See</i> Patent Owner’s Response, p. 62. Thus, Exhibit 2017 is hearsay under Fed. R. Evid. 801. Exhibit 2017 does not meet any exception provided under Fed. R. Evid. 803-804 and 807. Lastly, Petitioner objects to this exhibit in its entirety for lack of proper authentication under Fed. R. Evid.
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		901. Exhibit 2017, allegedly a market report article on a website, is not the kind of evidence that is self-authenticating under Fed. R. Evid. 902.
2018	Entirety	Petitioner objects to this exhibit in its entirety under Fed. R. Evid. 401, 402, 403, 801, 802, and 901. Specifically, Exhibit 2018 allegedly provides speculations about the EPB market by 2033 and is not tied to the claimed invention. For example, the Patent Owner cites to a single reference to Petitioner as a “key company” in the EPBA space as allegedly supporting a showing of commercial success of the alleged invention, but the exhibit makes no mention of the alleged invention. <i>See</i> Patent Owner’s Response, p. 62; Exhibit 2018. Accordingly, the exhibit (a) lacks any tendency to make a material fact more or less probable than it would be without the paragraphs; (b) are irrelevant; and (c) could confuse the issues and cause unfair prejudice. <i>See</i> Fed. R. Evid. 401, 402, and 403. Petitioner also objects to this exhibit in its entirety as inadmissible hearsay under Fed. R. Evid. 801 and 802.

		Patent Owner offers Exhibit 2017 as evidence to prove the truth of the matter asserted in the document – namely, that a company related to Petitioner is a “key company” in the EPB market. <i>See</i> Patent Owner’s Response, p. 62. Thus, Exhibit 2018 is hearsay under Fed. R Evid. 801. Exhibit 2018 does not meet any exception provided under Fed. R. Evid. 803-804 and 807. Lastly, Petitioner objects to this exhibit in its entirety for lack of proper authentication under Fed. R. Evid. 901. Exhibit 2018, allegedly a market report article on a website, is not the kind of evidence that is self-authenticating under Fed. R. Evid. 902.
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BANNER & WITCOFF, LTD.

Dated: September 6, 2023

By: /John R. Hutchins/

John R. Hutchins
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CERTIFICATE OF SERVICE

The undersigned certifies service on the Petitioner, pursuant to 37 C.F.R. § 42.6(e), by electronic (e-mail) delivery of a true copy of the foregoing PETITIONER'S OBJECTIONS TO EXHIBITS IN PATENT OWNER'S RESPONSE, to lead and back-up counsel of record for Petitioner as follows:

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Dated: September 6, 2023

By: /Carlos Goldie/

Carlos Goldie