

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ROBERT BOSCH LLC, and
MERCEDES-BENZ USA, LLC,
Petitioner,

v.

WESTPORT FUEL SYSTEMS CANADA INC.,
Patent Owner

Inter Partes Review No. IPR2023-00293
Patent No. 6,575,138

**PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64**

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Westport Fuel Systems Canada Inc. objects to the admissibility of the following evidence submitted by Petitioners, Robert Bosch LLC and Mercedes-Benz USA, LLC, with their Petition for *Inter Partes* Review. These objections are made within ten (10) business days of the February 5, 2024 Institution Decision (Paper 10). Notwithstanding these objections, Patent Owner expressly reserves the right to rely on any evidence submitted by Petitioners, including on the ground that such evidence constitutes a party admission.

Exhibit	Objection
Ex. 1003 (Declaration of Dr. Matt Quinlan)	Patent Owner objects to Exhibit 1003 to the extent the testimony of Dr. Quinlan is not cited to or relied upon by the Petition as lacking relevance under F.R.E. 401 and 402. The uncited paragraphs have no tendency to make any fact more or less probable than it would be without the evidence and such testimony is of no consequence in determining any issue in this IPR.

Ex. 1003 (Declaration of Dr. Matt Quinlan)	Patent Owner objects to the annotated and/or modified drawings in ¶¶ 60-69, 103-110, 117, 119-124, 151, 155, 160, 165, 176, 180, 190, 199, 246, 388, 402, 408, 412, 428, 434, and 439, and the demonstratives in ¶¶ 169-171, 213, 226, 403, 417, and 418 of Exhibit 1003 as lacking relevance under F.R.E. 401, 402, and 403 because, to the extent that the improper modifications, annotations, and demonstratives do not accurately reflect the documents they purport to characterize, they are not fair and accurate depictions of the drawings they purport to reproduce. Such drawings and demonstratives do not make any fact more or less probable than it would be without the evidence. And any alleged probative value of the identified drawings and demonstratives is substantially outweighed by the danger of unfair prejudice if the inaccurately annotated and/or modified drawings and demonstratives are relied on in deciding any issue in this IPR.
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Ex. 1003 (Declaration of Dr. Matt Quinlan)	Patent Owner objects to Exhibit 1003 to the extent it cites, discusses, and/or relies on exhibits, annotated/modified drawings, and/or demonstratives that are objected to herein for the same reasons Patent Owner objects to each of those exhibits, including, but not limited to: ¶¶ 86, 147, 148, 192-217, 230, 231, 245, 269, 281, 286, 299, 300, 309, 316, 317, 318, 327, 336, 337, 342-344, 357, 358, 373, 376, 384, 385, 387, 390-395, 403, 405, 411, 414, 415, 416, 426, 427, 430, 431, 432, 433, 448, 451, 454, 458, 475, 479, 491, 492, 494, and for drawings and demonstratives: ¶¶ 60-69, 103-110, 117, 119-124, 151, 155, 160, 165, 169-171, 176, 180, 190, 199, 213, 226, 246, 388, 402, 403, 408, 412, 417, 418, 428, 434, and 439.
Ex. 1006 (Certified translation of DE 197 08 304 A1 to Klügl and associated translator's declaration)	Patent Owner objects to Exhibit 1006 as lacking relevance under F.R.E. 401, 402 and 901 to the extent that the proffered translation is inaccurate and/or inconsistent with other interpretations of any portion of the original German Exhibit 1005. To the extent inaccurate and/or inconsistent, this translation does not make any fact more or less probable than it would be without the evidence. Patent Owner further objects to this exhibit under F.R.E. 802 and 803 as inadmissible hearsay to which no hearsay exception applies.

Exs. 1007-1010, 1012, 1013, 1015	Patent Owner objects to Exhibits 1007-1010, 1012, 1013, 1015 under F.R.E. 401, 402, and 403 as lacking relevance to the extent that these exhibits do not form a basis of any instituted grounds and as their probative value is outweighed by other considerations including prejudice, confusion, and waste of time.
Ex. 1008 (U.S. Patent No. 6,295,969 B1 to Kato et al.)	Patent Owner further objects to Exhibit 1008 under F.R.E. 401, 402, and 403 as lacking relevance to the extent this exhibit is relied upon as evidence of prior art, of common knowledge, or understanding of persons in the art as of the relevant priority date. Petitioners have neither shown this exhibit qualifies as prior art nor provided support to demonstrate common knowledge of the referenced portions at the time of the relevant priority date.
Exs. 1018-1019, 1021 (Docket Sheets)	Patent Owner objects to Exhibits 1018-1019, 1021 under F.R.E. 106 and 1001 as incomplete and therefore creating misleading impressions as to the status of the dockets at issue.
Ex. 1022 (Disclosure of Asserted Claims and Infringement Contentions from Ford Case)	Patent Owner objects to Exhibit 1022 under F.R.E. 401, 402, and 403 as lacking relevance to the issue of patentability and as lacking relevance because this exhibit reflects preliminary infringement contentions served prior to substantive discovery and claim construction.

Ex. 1023 (U.S. Patent No. 6,148,842 to Kappel et al.)	Patent Owner objects to Exhibit 1023 under 401, 402, and 403 to the extent that this exhibit is not referenced or cited in the body of the Petition. This uncited exhibit does not make any fact more or less probable than it would be without the evidence. It does not form a basis of the instituted grounds, and any probative value is outweighed by other considerations including prejudice, confusion, and waste of time.
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Dated: February 16, 2024

By: /s/ Derek Forinash
Derek V. Forinash (*withdrawal pending*)
Registration No. 47,231
PORTER HEDGES LLP
1000 Main St., 36th Floor
Houston, TX 77002
Tel: (713) 226-6714
Fax: (713) 226-6314
dforinash@porterhedges.com

David Higer (*substitution pending*)
Reg. No. 74,910
Miranda Jones
Reg No. 64,721
Winstead PC
2728 N. Harwood Street, Suite 500
Dallas, TX 75201
dhiger@winstead.com
mjones@winstead.com

*Attorneys for Westport Fuel Systems
Canada, Inc.*

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE was served on the Petitioner's counsel of record by email (to which Petitioner has consented):

K. Patrick Herman P52PTABDocket@orrick.com

Bas de Blank M2BPTABDocket@orrick.com

Celine Crowson celine.crowson@hoganlovells.com

Joseph Raffetto joseph.raffetto@hoganlovells.com

Dated: February 16, 2024

By: /s/ Derek Forinash

Derek V. Forinash (*withdrawal
pending*)

*Attorney for Westport Fuel Systems
Canada, Inc.*