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

Case No. IPR2023-00293
Patent No. 6,575,138

PATENT OWNER'S OBJECTIONS TO PETITIONERS' REPLY EVIDENCE

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 on July 26, 2024 with Petitioners' Reply. These objections are timely made within five (5) business days of service of Petitioners' evidence. Patent Owner's objections apply the Federal Rules of Evidence ("FRE") as required by 37 C.F.R. § 42.62. 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. 1025 (Discussion of "Hubübersetzung" on KudoZ)	Patent Owner objects to this exhibit under FRE 401, 402, and 403 as lacking relevance to any issue before the Board because it does not relate to the translation of the disputed term. Patent Owner further objects to this exhibit under FRE 801 and 802 as inadmissible hearsay because it contains out of court statements offered for the truth of the matter asserted to which no hearsay exception applies.
Ex. 1029 (DE 10 2005 009 148 A1 to Magel (annotated)) Ex. 1031 (EP 1 590 880 B1 to Kronberger (annotated)) Ex. 1033 (DE 10 2012 222 509	Patent Owner objects to Exhibits 1029, 1031, 1033, 1035, and 1037 as lacking relevance under FRE 401 and 402. These exhibits are all untranslated German documents that 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

A1 to Jagani et al. (annotated)) Ex. 1035 (DE 10 2010 040 612 A1 to Bachmaier et al. (annotated)) Ex. 1037 (DE 41 19 467 C2 to Schwerdt et al. (annotated))	determining any issue in this IPR. Petitioners have failed to meet the requirements of 37 CFR § 42.63, which requires an English translation of a document in a language other than English and an affidavit attesting to the accuracy of the translation. Patent Owner further objects to these exhibits and any argument submitted on or about these exhibits because such argument would not meet the personal knowledge foundation requirements of FRE 602 and would be improper expert testimony under FRE 702 and 703. Any argument from counsel about these exhibits constitutes improper opinions that are inadmissible under FRE 602, 702, and 703 because they lack foundation, are conclusory, do not disclose underlying facts or data in support, are unqualified, and are unreliable. Patent Owner also objects to these exhibits as prejudicial far in excess of any probative value under FRE 403—because the evidence is offered with no opportunity for Patent Owner to cross-examine the evidence through any expert or other witness who can establish foundational facts or their alleged import. As such, Patent Owner has been denied a meaningful opportunity to respond pursuant to the requirements of Due Process and the Administrative Procedure Act. To the extent Petitioners rely on the contents of these exhibits for the truth of the matter asserted, Patent Owner also objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions. Further, Patent Owner objects to these exhibits

	as beyond the scope of the Petition and untimely. Petitioners should have introduced these and proper translations thereof in their Petition to support their translation and translator's declaration. 37 C.F.R. §§ 42.104(b)(5), 42.23(b), 42.123(b).
Ex. 1030 (U.S. Pub. 2008/0099538 A1 to Magel (annotated)) Ex. 1032 (U.S. Pub. 2006/0033405 A1 to Kronberger (annotated)) Ex. 1034 (U.S. Pub. 2015/0292462 A1 to Jagani et al. (annotated)) Ex. 1036 (U.S. Pub. 2023/0269790 A1 to Bachmaier et al. (annotated)) Ex. 1038 (U.S. Patent No. 5,186,151 to Schwerdt et al. (annotated))	Patent Owner objects to Exhibits 1030, 1032, 1034, 1036, and 1038 as lacking relevance under FRE 401 and 402. These exhibits 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. Patent Owner further objects to these exhibits and any argument submitted on or about these exhibits because such argument would not meet the personal knowledge foundation requirements of FRE 602 and would be improper opinion testimony under FRE 702 and 703. Any argument from counsel about these exhibits constitutes improper opinions that are inadmissible under FRE 602, 702, and 703 because they lack foundation, are conclusory, do not disclose underlying facts or data in support, are unqualified, and are unreliable. Petitioners are improperly attempting to substitute these exhibits for a proper translation and affidavit from a translation required by 37 CFR § 42.63, relying instead solely on attorney argument. Patent Owner also objects to these exhibits as prejudicial far in excess of any probative value under FRE 403—because the evidence is offered with no opportunity for Patent Owner to cross-examine the evidence through any expert or other witness who can establish foundational facts or their alleged import. As

	such, Patent Owner has been denied a meaningful opportunity to respond to these exhibits pursuant to the requirements of Due Process and the Administrative Procedure Act. To the extent Petitioners rely on the contents of these exhibits for the truth of the matter asserted, Patent Owner also objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions. Further, Patent Owner objects to these exhibits as beyond the scope of the Petition and untimely. Petitioners should have introduced these exhibits in their Petition to support their translation and translator's declaration. 37 C.F.R. §§ 42.104(b)(5), 42.23(b), 42.123(b).
Ex. 1039 (Excerpt from Askeland et al., "The Science and Engineering of Materials" (7th Ed. 2022))	Patent Owner objects to Exhibit 1039 as lacking relevance under FRE 401 and 402 because this technical reference is cited only in connection with counsel's argument. Patent Owner further objects to Exhibit 1039 and any argument submitted on or about this exhibit, under FRE 702, 703 as this technical reference is not discussed by any technical expert. In the absence of any expert testimony from a qualified expert about the exhibit, any argument from counsel about the exhibit constitutes opinions that are inadmissible under FRE 602 and 702.
Ex. 1040 (Reply Declaration of Dr. Matt Quinlan)	Patent Owner objects to Exhibit 1040 regarding the operation of Klügl set forth in, for example, paragraphs 15–19, 22, 25, 27 under FRE 702. Dr. Quinlan's opinions are neither the product of reliable principles and methods nor the result of the reliable

	application of the principles and methods to the facts of the case. Further, Patent Owner objects to paragraphs 27–28, 31, 33–35, 43–47, 51, and 52 as containing improper reply opinions. These paragraphs improperly seek to expand the scope of the grounds and are untimely. 37 C.F.R. §§ 42.104(b)(5), 42.23(b). Patent Owner objects to the demonstrative in paragraph 27 and any related discussion as lacking relevance under FRE 401, 402, and 403 because it does not accurately reflect the document it purports to characterize and is not a fair and accurate depiction. This demonstrative does not make any fact more or less probable than it would be without the evidence. And any alleged probative value of the identified demonstrative is substantially outweighed by the danger of unfair prejudice if the inaccurate demonstrative is relied on in deciding any issue in this IPR. Patent Owner further objects to paragraphs 36-38, which are not cited to or relied upon by the Petition, as lacking relevance under FRE 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.

Dated: August 1, 2024

By: */s/ David Higer*

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CERTIFICATE OF SERVICE

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

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