

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MOM ENTERPRISES, LLC,
Petitioner,

v.

ELAINE AND REINHOLD W. VIETH,
Patent Owner

Case IPR2023-00726
Patent 9,066,958 B2

PETITIONER'S OBJECTIONS TO EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner hereby submits its notice of objections to certain evidence that Patent Owner filed on February 9, 2024, in connection with the Patent Owner's Response in IPR2023-00726.

Ex. No.	Objections
Ex. 2022 Rule 30(b)(6) Deposition Transcript of Innovative Labs, taken September 6, 2023, and Exhibits 1-23	Petitioner objects to this exhibit as an improperly combined document. 37 CFR § 42.63(d); 37 C.F.R § 42.6(a)(3).
Ex. 2059 Medina Deposition Ex. 41	Lacks authentication. FRE 901.
Ex. 2068 Declaration of Reinhold Vieth, dated February 3, 2024, and Exhibits A-F	Petitioner objects to this exhibit as an improperly combined document. 37 CFR § 42.63(d); 37 C.F.R § 42.6(a)(3). Mr. Vieth lacks foundation and is not a qualified expert to opine on infant behavior. FRE 701, 702. <i>See, e.g.,</i> ¶¶ 10, 46, 47, 48, 49, 50, 51, 93 Mr. Vieth lacks personal knowledge and does not provide a basis to opine on the history of Vitamin D. FRE 701, 702. <i>See, e.g.,</i> ¶¶ 19-26, 31 Hearsay. FRE 802, 803 ¶¶ 54, 55
Ex. 2069 Declaration of Paul Horowitz, dated February 5, 2024, and Exhibits A-M	Petitioner objects to this exhibit as an improperly combined document. 37 CFR § 42.63(d); 37 C.F.R § 42.6(a)(3).
Ex. 2070 Declaration of Casey MacKenzie, dated February 7, 2024, and Exhibits A-B	Petitioner objects to this exhibit as an improperly combined document. 37 CFR § 42.63(d); 37 C.F.R § 42.6(a)(3).
Ex. 2071 Declaration of Chris Temovsky, dated February 8, 2024, and Exhibits A-X	Petitioner objects to this exhibit as an improperly combined document. 37 CFR § 42.63(d); 37 C.F.R § 42.6(a)(3).

Ex. No.	Objections
	Mr. Temovsky lacks foundation to opine on the basis of Ddrop’s praise or Mommy’s Bliss’s success. <i>See, e.g.</i>, ¶¶ 67, 80-84 Exhibit R lacks the foundation and to make the cited claim and is hearsay. FRE 701, 802, 803. ¶¶ 69, Exhibit R. Customer reviews are hearsay. FRE 802, 803. <i>See, e.g.</i>, ¶ 46, 83. Exhibits G, T Exhibit S is an improper summary of voluminous records. FRE 1006.
Ex. 2072 Declaration of Steven M. Reid, dated February 9, 2024, and Exhibits A-B	Petitioner objects to this exhibit as an improperly combined document. 37 CFR § 42.63(d); 37 C.F.R § 42.6(a)(3). Mr. Reid lacks foundation and is not a qualified expert to opine on infant behavior. FRE 701, 702. <i>See, e.g.</i>, ¶ 78. Mr. Reid lacks foundation and is not a qualified expert to opine on Petitioner’s chronology. FRE 701, 702. <i>See, e.g.</i>, ¶¶ 106-117.

Date: February 16, 2024

/David Conrad/
David Conrad, Reg. No. 60,788
Lance Wyatt, Reg. No. 68,837
Sarika Patel, *Pro Hac Vice*
Casey M. Kraning, *Pro Hac Vice*
Fish & Richardson P.C.
60 South Sixth Street, Suite 3200
Minneapolis, MN 55402

T: (202) 783-5070
F: (877) 769-7945

Counsel for Petitioner
MOM Enterprises, LLC

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§42.6(e), the undersigned certifies that on February 16, 2024, a complete and entire copy of this Petitioner's Objections to Evidence was provided via email to the Patent Owner by serving the correspondence email address of record as follows:

Mark E. Ungerman, Reg. No. 32,070
UNGERMAN IP PLLC
Email: mungerman@ungermanip.com

Peter J. Davis, Reg. No. 36119
WHITEFORD, TAYLOR & PRESTON LLP
Email: pdavis@whitefordlaw.com

Alan M. Anderson, *Pro Hac Vice*
L. Regan Florence, *Pro Hac Vice*
Matthew Palen, *Pro Hac Vice*
ALAN ANDERSON LAW FIRM LLC
Email: aanderson@anderson-lawfirm.com
rflorence@anderson-lawfirm.com
mpalen@comcast.net

/Hoi Cheung/_____
Hoi Cheung
Fish & Richardson P.C.
60 South Sixth Street, Suite 3200
Minneapolis, MN 55402
hcheung@fr.com