

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BAZOOKA-FARMSTAR, LLC,

Petitioner,

v.

NUHN INDUSTRIES LTD.,

Patent Owner.

Case No. IPR2023-01161
U.S. Patent No. 11,358,425

**PATENT OWNER'S OBJECTIONS TO PETITIONER'S
DEMONSTRATIVE EXHIBITS**

Pursuant to the Order regarding Oral Argument (Paper No. 56, p. 3), Patent Owner Nuhn Industries Ltd. (“Nuhn”) objects to Petitioner Bazooka-Farmstar, LLC’s (“Bazooka”) demonstrative exhibits (EX1140-1142). The parties met and conferred, seeking to resolve these objections on October 8, 2024. The Parties were unable to resolve the objections during the meet and confer.

I. PETITIONER’S HEARING DEMONSTRATIVES (EX1140)

- **Slide 27** – Patent Owner objects on the ground that slide 27 inaccurately summarizes the deposition testimony of Patent Owner’s expert and provides no citation to the evidence (i.e., Mr. Prairie’s deposition transcript, EX1111) contrary to the guidance provide by the Board at Paper 56, p. 3.
- **Slides 44-45** – Patent Owner objects on the ground that slides 44-45 include new argument and evidence in violation of Paper 56, p. 3 and *Dell Inc. v. Acceleron, LLC*, 884 F.3d 1364, 1369 (Fed. Cir. 2018) because Petitioner advances invalidity arguments based on the September 5, 2024 deposition testimony of Reidar Olofsson (EX2102), which was not taken prior to DUE DATE 2 or DUE DATE 3 in this proceeding (*see* Paper 13) and is not mentioned in Petitioner’s papers (i.e., the Petition, Paper 1 or Petitioner’s Reply, Paper 41).¹

¹ The September 5, 2024 deposition of Reidar Olofsson (EX2102) was taken during the cross-examination period for motions to exclude and was filed by Patent

- **Slides 54 and 72** – Patent Owner objects to slides 54 and 72 as improperly making use of a video (EX1081) to add to the teachings of the SenwaTec publication (EX1012) when the video is not the asserted prior art and Petitioner has not proven public accessibility of video prior to Nuhn’s priority date in violation of 35 U.S.C. § 311(b) and *Salpeter v. ARP Manufacturing, LLC*, 2019 WL 7282091 (PTAB 2019).

II. PETITIONER’S MOTION TO AMEND DEMONSTRATIVES (EX1141)

- **Slides 11 and 13** – Patent Owner objects on the ground that slides 11 and 13 include new argument and evidence in violation of Paper 56, p. 3 and *Dell Inc. v. Accelaron, LLC*, 884 F.3d 1364, 1369 (Fed. Cir. 2018) by advancing an invalidity argument against Substitute Claim 22 based on Cheramie’s water pump 90 (as opposed to Cheramie’s dredge pump 50), which is a new argument that was not made in Petitioner’s Opposition to Motion to Amend (*see* Paper 36, 8).
- **Slide 17** – Patent Owner objects on the ground that slide 17 includes new argument and evidence in violation of Paper 56, p. 3 and *Dell Inc. v. Accelaron, LLC*, 884 F.3d 1364, 1369 (Fed. Cir. 2018) because Petitioner advances invalidity arguments based on the September 6, 2024 deposition

Owner for the limited purpose of its Motion to Exclude (Paper 55), which challenges the admissibility of the Olofsson Declaration (EX1008).

testimony of Ansgar Lonnemann (EX2103), which was not taken prior to DUE DATE 2 and DUE DATE 3 in this proceeding (*see* Paper 13) and is not mentioned in Petitioner's papers (i.e., Petitioner's Opposition to the Motion to Amend, Paper 36).²

III. PETITIONER'S MOTION TO EXCLUDE DEMONSTRATIVES (EX1142)

- **Slide 20** – Patent Owner objects on the ground that slide 20 includes new evidence in violation of Paper 56, p. 3 and *Dell Inc. v. Acceleron, LLC*, 884 F.3d 1364, 1369 (Fed. Cir. 2018) because it cites two new exhibits: (1) Lonnemann's German Declaration (EX1138), and (2) a Certified Translation (EX1139), which were filed by Petitioner after Patent Owner's Motion to Exclude (Paper 55) and are therefore new and untimely evidence.

Dated: October 10, 2024

Respectfully submitted,

By: /James B. Luchsinger/

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² The September 6, 2024 deposition of Ansgar Lonnemann (EX2103) was taken during the cross-examination period for motions to exclude and was filed by Patent Owner for the limited purpose of its Motion to Exclude (Paper 55), which challenges the admissibility of the Lonnemann Declaration (EX1013).

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. 42.6(e), I certify that on this 10th day of October 2024, a true and correct copy of the foregoing **PATENT OWNER'S OBJECTIONS TO PETITIONER'S DEMONSTRATIVE EXHIBITS** was served by electronic mail on Petitioner's lead and backup counsel at the following addresses:

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