

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SHARKNINJA, INC.,
SHARKNINJA OPERATING LLC,
SHARKNINJA MANAGEMENT LLC, AND
SHARKNINJA SALES COMPANY

Petitioners,

v.

DYSON TECHNOLOGY LIMITED,
Patent Owner.

Case No. IPR2023-01322
U.S. Patent No. 10,433,687

**PETITIONER'S OBJECTIONS TO PATENT OWNER'S EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioners SharkNinja, Inc., SharkNinja Operating LLC, SharkNinja Management LLC, and SharkNinja Sales Company (collectively, “Petitioners”) object to the following exhibits filed by Patent Owner Dyson Technology Limited (“Dyson”) with its Preliminary Response (Paper No. 6).

Ex. 2005, Ex. 2006, Ex. 2007, Ex. 2008, Ex. 2013, and Ex. 2014

Petitioners object to Exhibits 2005, 2006, 2007, 2008, 2013, and 2014 under Federal Rules of Evidence (“FRE”) 401/402 (relevance) and FRE 403 (probative value outweighed by prejudice, confusing of issues, wasting time).

In its Preliminary Response (Paper 6), Dyson points to three invalidity proceedings associated with Chinese counterparts of Dyson’s Int’l Publication NO. WO 2008/009888 (“WO ’888”). See Paper 6 at 17-18 (citing Ex. 2005 (original); Ex. 2006 (translation); Ex. 2007 (original); Ex. 2008 (translation); Ex. 2013 (original) ; Ex. 2014 (translation)). Courts regularly exclude evidence concerning foreign legal proceedings, including invalidity proceedings like those that Patent Owner seeks to rely on, under FRE 401 and/or 403. See *e.g.*, *Waddington N. Am., Inc. v. Sabert Corp.*, No. 09-4883(GEB), 2011 WL 3444150 at *3 (D. N.J. Aug. 5, 2011) (“The Court excluded evidence that foreign tribunals had found the patent invalid because they were irrelevant and substantially prejudicial”); *Pharmastem Therapeutics, Inc. v. Viacell, Inc.*, No. 02-148 GMS, 2003 WL 22244704, at *1 (D. Del. Sep. 30, 2003) (granting motion to exclude evidence of foreign decision

because it “applies European, as opposed to United States, patent laws, and examines different claims than the ones at issue in this case”). This is because “the theories and laws of patentability vary from country to country, as do examination practices.” *Heidelberger Druckmaschinen AG v. Hantscho Commercial Prods., Inc.*, 21 F.3d 1068, 1073 n.2 (Fed. Cir. 1994) (reversing the trial court’s finding of invalidity for obviousness); *Lindemann Maschinenfabrik*, 730 F.2d at 1458 n.2 (Fed. Cir. 1984) (“the language and laws of other countries differ substantially from those in the United States”); *Application of Dulberg*, 472 F.2d 1394, 1398 (Fed. Cir. 1973) (“The granting of a patent on an ‘invention’ in a foreign country has no relevance to the determination of whether the same ‘invention’ would be obvious within the ambit of § 103 since it is notoriously well known that the standards of patentability vary from country to country”); *Oki Am., Inc. v. Advanced Micro Devices, Inc.*, No. C 04-03171 CRB, 2006 WL 3290577, at *8 n.2 (N.D. Cal. Nov. 13, 2006) (“The action taken by the European Patent Office rejecting Patel’s counterpart application over the same Fujii reference is neither controlling nor persuasive.”).

Ex. 2003, Ex. 2004, Ex. 2011, Ex. 2012

Petitioners object to Exhibits 2003, 2004, 2011, and 2012 under FRE 401/402 (relevance) and FRE 403 (probative value outweighed by prejudice, confusing of issues, wasting time). In its Preliminary Response (Paper 6), Dyson identifies four Chinese patent documents that were considered in the three Chinese invalidity

proceedings referenced above. See Paper 6 at 17-18 (citing Ex. 2003; Ex. 2004; Ex. 2011; Ex. 2012). Dyson does not refer to Exhibits 2003, 2004, 2011, and 2012 for any other reason. Petitioners object to Exhibits 2003, 2004, 2011, and 2012 under FRE 401/402 and FRE 403 for the same reasons set forth above in connection with Exhibits 2005, 2006, 2007, 2008, 2013, and 2014.

Respectfully Submitted,

DATED: March 11, 2024

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Petitioner's Objections to Patent Owner's Evidence Pursuant to 37 C.F.R. § 42.64(b)(1) was served on March 11, 2024, by filing this document through the PTAB PTACTS System, as well as delivering a copy via electronic mail upon the following attorneys of record for Petitioner:

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