

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DEXCOM, INC.,
Petitioner,

v.

ABBOTT DIABETES CARE INC.,
Patent Owner.

Case No. IPR2023-01409

U.S. Patent No. 11,202,591

**PATENT OWNER'S OBJECTIONS TO
PETITIONER'S EXHIBITS TO THE PETITION**

Pursuant to 37 C.F.R. § 42.64(b)(1), Abbott Diabetes Care Inc. (“Abbott”) serves and submits the following objections to exhibits served with DexCom, Inc.’s Petition for the *Inter Partes* Review of U.S. Patent No. 11,202,591.

Abbott objects to Exhibit 1003 to the extent it includes inadmissible irrelevant evidence under at least Fed. R. Evid. 401, 402, and 403. Many of the opinions expressed there are inadmissible to the extent that they are speculative and lack support, relate to irrelevant matters, or are based on legally improper standards or claim misinterpretations. Abbott further objects under at least Fed. R. Evid. 401, 402, 403, and 702 as well as 37 C.F.R. § 42.65 because the witness offering declaration testimony lacks the knowledge, skill, experience, training, or education to testify as an expert in a manner that is helpful to the Board; provides opinions that are not based on sufficient facts or data; and fails to identify with particularity the facts on which his opinions are based. Abbott further objects to the extent that Exhibit 1003 relies upon irrelevant information from after the priority date of the patent at issue.

Abbott objects to Exhibits 1004-1021, 1025-1031, 1034-1038, 1040, and 1042 as inadmissible irrelevant evidence under at least Fed. R. Evid. 401, 402, and 403, to the extent that the exhibits are not relevant to the issues for which they are being presented including the purported state of the art. Abbott further objects to the extent that Petitioner relies upon them for inadmissible hearsay under at least Fed. R. Evid.

801 and 802. Abbott further objects to Exhibit 1004, 1009, 1012, 1018, 1021, 1029, 1030, 1036, 1037, and 1042 under Fed. R. Evid. 401, 402, 403, 801, 802, and 901, at least to the extent that Petitioner has not established the exhibit is prior art. Abbott further objects to Exhibits 1034 and 1035 under Fed. R. Evid. 106 to the extent Petitioner has not provided a complete copy.

Abbott objects to Exhibit 1041 to the extent it includes inadmissible irrelevant evidence and unauthenticated hearsay under at least Fed. R. Evid. 401, 402, 403, and 901 and under Fed. R. Evid. 106 due to lack of completeness.

Abbott further objects to Exhibits 1021 and 1031 under at least Fed. R. Evid. 401, 402, and 403, as well as 37 C.F.R. §§ 42.22(a)(2) and 42.23(a) and 42.6, at least because Petitioner has not discussed or even cited to this evidence in its Petition and the evidence is not relevant to any issues in this case.

Dated: April 29, 2024

/Peter J. McAndrews/

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Patent Owner's Objections to Petitioner's Exhibits to the Petition** in connection with *Inter Partes* Review IPR2023-01409 was served on April 29, 2024 by electronic mail to the following:

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