

Filed: July 10, 2024

On behalf of **Spectrum Solutions L.L.C.**  
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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**SPECTRUM SOLUTIONS L.L.C.,**  
Petitioner,

v.

**DNA GENOTEK INC.,**  
Patent Owner.

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IPR2023-01424  
U.S. Patent No. 11,536,632

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**PETITIONER'S OBJECTIONS TO THE ADMISSIBILITY  
OF EVIDENCE SUBMITTED IN MOTION TO AMEND**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner Spectrum Solutions L.L.C. (“Spectrum”) hereby timely objects to the admissibility of evidence filed by Patent Owner DNA Genotek Inc. (“Genotek”) after trial institution.

| Exhibit Number                           | Objections                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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| 2014 – Declaration of Dr. Steven Wereley | <p><b>Relevance, Misleading (FRE 106, 401, 402, 403):</b></p> <p>¶¶19-21 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited, their use in this context is misleading, and they improperly mischaracterize the challenged patent (Ex 1001).</p> <p>¶¶26-34 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited, their use in this context is misleading, and they improperly mischaracterize Ex. 2015 and Ex. 2022.</p> <p>¶¶35-41 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited, their use in this context is misleading, and they improperly mischaracterize Ex. 2015, Plante (Ex. 1003), and Cho (Ex. 1004).</p> <p>¶¶42-47 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited, their use in this context is misleading, and they improperly mischaracterize Mr. Leinsing’s expert report (Ex.1002), Plante (Ex. 1003), and Cho (Ex. 1004).</p> <p>¶¶48-54 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited, their use in this context is misleading, and they improperly mischaracterize</p> |

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|  | <p>Mr. Leinsing's expert report (Ex.1002), Plante (Ex. 1003), and Cho (Ex. 1004).</p> <p>¶¶55-67 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited, their use in this context is misleading, and they improperly mischaracterize Mr. Leinsing's expert report (Ex.1002), Plante (Ex. 1003), and Cho (Ex. 1004).</p> <p>¶¶68-72 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited, their use in this context is misleading, and they improperly mischaracterize Mr. Leinsing's expert report (Ex.1002), Dr. Metzger's expert report, Plante (Ex. 1003), and Cho (Ex. 1004).</p> <p>¶¶73-77 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited, their use in this context is misleading, and they improperly mischaracterize Mr. Leinsing's expert report (Ex.1002), Patterson (Ex. 1010), Plante (Ex. 1003), and Cho (Ex. 1004).</p> <p>¶¶78-83 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited, their use in this context is misleading, and they improperly mischaracterize and Ueda (Ex. 1005).</p> <p>¶¶84-86 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited, their use in this context is misleading, and they improperly mischaracterize Patterson (Ex. 1010), and Ueda (Ex. 1005).</p> |
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|  | <p>¶¶87-89 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited, their use in this context is misleading, and they improperly mischaracterize Ueda (Ex. 1005), and Williams (Ex. 1009).</p> <p><b>Footnote 30</b><br/><b>37 C.F.R. § 42.63:</b> The information cited in footnote 30 violates the Board’s requirement that all evidence must be in the form of an exhibit.<br/><b>Relevance, Misleading (FRE 106, 401, 402, 403):</b> The information is either not relevant or, to the extent it is relevant, the probative value is substantially outweighed by a danger of unfair prejudice and/or confusing the issues, due to the misleading manner in which Patent Owner has relied on it.</p> <p><b>Footnote 76</b><br/><b>37 C.F.R. § 42.63:</b> The information cited in footnote 76 violates the Board’s requirement that all evidence must be in the form of an exhibit.<br/><b>Relevance, Misleading (FRE 106, 401, 402, 403):</b> The information is either not relevant or, to the extent it is relevant, the probative value is substantially outweighed by a danger of unfair prejudice and/or confusing the issues, due to the misleading manner in which Patent Owner has relied on it.<br/><b>Hearsay (FRE 801, 802):</b> The information is hearsay as it relies on statements supposedly made by Dr. Michael Metzker as evidence, and Dr. Metzker is not a declarant in this proceeding.</p> <p><b>Improper Testimony by Expert Witness (FRE 702):</b> Wereley’s testimony is unreliable because it is not based on sufficient facts and data, and does</p> |
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|                                        | <p>not reliably apply facts and data using scientific principles.</p> <p><b>Relevance, Misleading (FRE 401, 403):</b><br/> ¶¶1-27, 73, 78, 84, 87 are not relevant to any issue raised in the Motion to Amend and are not cited to or relied upon in the Motion to Amend.</p>                  |
| <b>2015</b> – U.S. App. No. 17/510,003 | <b>FRE 106, 401, 402, 403:</b> The exhibit is either not relevant or, to the extent it is relevant, the probative value is substantially outweighed by a danger of unfair prejudice and/or confusing the issues, due to the misleading manner in which Patent Owner has relied on the exhibit. |
| <b>2016</b> – U.S. App. No. 16/023,772 | <b>FRE 106, 401, 402, 403:</b> The exhibit is either not relevant or, to the extent it is relevant, the probative value is substantially outweighed by a danger of unfair prejudice and/or confusing the issues, due to the misleading manner in which Patent Owner has relied on the exhibit. |
| <b>2017</b> – U.S. App. No. 15/227,693 | <b>FRE 106, 401, 402, 403:</b> The exhibit is either not relevant or, to the extent it is relevant, the probative value is substantially outweighed by a danger of unfair prejudice and/or confusing the issues, due to the misleading manner in which Patent Owner has relied on the exhibit. |
| <b>2018</b> – U.S. App. No. 14/127,832 | <b>FRE 106, 401, 402, 403:</b> The exhibit is either not relevant or, to the extent it is relevant, the probative value is substantially outweighed by a danger of unfair prejudice and/or confusing the issues, due to the misleading manner in which Patent Owner has relied on the exhibit. |
| <b>2019</b> – U.S. Pat. No. 9,442,046  | <b>FRE 106, 401, 402, 403:</b> The exhibit is not relevant to any issue raised in the Motion to Amend and is not cited to or relied upon in the Motion to Amend.                                                                                                                               |
| <b>2020</b> – U.S. App. No. 61/598,601 | <b>FRE 106, 401, 402, 403:</b> The exhibit is not relevant to any issue raised in the Motion to Amend                                                                                                                                                                                          |

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|-------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                       | and is not cited to or relied upon in the Motion to Amend.                                                                                                                                                                                                                                     |
| <b>2021</b> – U.S. App. No. 61/598,618                | <b>FRE 106, 401, 402, 403:</b> The exhibit is not relevant to any issue raised in the Motion to Amend and is not cited to or relied upon in the Motion to Amend.                                                                                                                               |
| <b>2022</b> – U.S. App. No. 61/498,584                | <b>FRE 106, 401, 402, 403:</b> The exhibit is either not relevant or, to the extent it is relevant, the probative value is substantially outweighed by a danger of unfair prejudice and/or confusing the issues, due to the misleading manner in which Patent Owner has relied on the exhibit. |
| <b>2023</b> – IPR 2022-01347<br>Patent Owner Response | <b>FRE 106, 401, 402, 403:</b> The exhibit is not relevant to any issue raised in the Motion to Amend and is not cited to or relied upon in the Motion to Amend.                                                                                                                               |
| <b>2024</b> – U.S. App. No. 61/861,329                | <b>FRE 106, 401, 402, 403:</b> The exhibit is not relevant to any issue raised in the Motion to Amend and is not cited to or relied upon in the Motion to Amend.                                                                                                                               |

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: July 10, 2024

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Customer No. 20,995

Attorneys for Petitioner,  
Spectrum Solutions L.L.C.

**CERTIFICATE OF SERVICE**

I hereby certify that, pursuant to 37 C.F.R. § 42.6(e) and with the agreement of counsel for Patent Owner, a true and correct copy of **PETITIONER'S OBJECTIONS TO THE ADMISSIBILITY OF EVIDENCE** is being served electronically on July 10, 2024, to the e-mail addresses shown below:

|                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                       |
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