

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SPECTRUM SOLUTIONS L.L.C.,
Petitioner,

v.

DNA GENOTEK INC.,
Patent Owner.

Patent No. 11,536,632

Inter Partes Review No. IPR2023-01424

**PATENT OWNER'S OBJECTIONS TO EVIDENCE SUBMITTED WITH
PETITIONER'S OPPOSITION TO PATENT OWNER'S NON-
CONTINGENT MOTION TO AMEND**

DNA Genotek Inc. (“DNA Genotek” or “Patent Owner”) hereby objects to the following evidence that was submitted by Spectrum Solutions L.L.C. (“Spectrum” or “Petitioner”) with the Opposition to Patent Owner’s Non-Contingent Motion to Amend (“Opp.,” Paper 19) in the above-captioned proceeding. In accordance with 37 C.F.R. § 42.64(b)(1), these objections are being timely filed and served within five (5) business days of service of evidence to which the objection is directed.

A. Exhibit 1025 FIGS. 3A-3C (annotated) from U.S. Application No. 17/510,003

Patent Owner objects to Exhibit 1025 for each of the reasons noted in the objections made during the deposition of Stephen Wereley, Ph.D. on September 10, 2024. Patent Owner further objects to Exhibit 1025 as annotated as irrelevant, not authentic, and offered for the truth of its contents, namely, that the annotated red line is in fact horizontal in FIG. 3B and is purported to show the positional relationship of various elements in FIG. 3B. *See* Fed. R. Evid. (“FRE”) 401-403, 802 and 901.

B. Exhibit 1026 (FIGS. 3A and 3B (annotated) from U.S. Application No. 61/498,584)

Patent Owner objects to Exhibit 1026 for each of the reasons noted in the objections made during the deposition of Stephen Wereley, Ph.D. on September 10, 2024. Patent Owner further objects to Exhibit 1026 as annotated as irrelevant,

not authentic, and offered for the truth of its contents, namely, that the annotated red lines are in fact horizontal in FIGS. 3A and 3B and are purported to show the positional relationship of various elements in FIGS. 3A and 3B. *See* FRE 401-403, 802 and 901.

C. Exhibit 1027 (Declaration of Karl R. Leinsing, MSME, PE)

Patent Owner objects to Exhibit 1027 as lacking foundation, assuming facts not in evidence, containing legal conclusions, and mischaracterizing the evidence. Patent Owner further objects to Exhibit 1027 to the extent that it includes expert opinions for which the factual bases have not been disclosed, for which Mr. Leinsing does not have personal knowledge (FRE 602), and to the extent that Mr. Leinsing's opinions constitute unreliable and prejudicial expert testimony under FRE 702 and 703.

Patent Owner further objects to the portions of Exhibit 1027 not discussed or cited in Petitioner's Opposition to the Motion to Amend as irrelevant. In particular, Petitioner did not cite or discuss at least paragraphs 1-8 of Exhibit 1027 in its Opposition.

D. Exhibit 1028 (Definition of "Within," Merriam-Webster Collegiate Dictionary (11th ed., 2004))

Exhibit 1028 purports to be a dictionary definition of "within." Patent Owner objects to Exhibit 1028 as hearsay because Petitioner and its declarant rely on it for its truth, namely, to prove the meaning of "within." Patent Owner also

objects that Petitioner has not authenticated Exhibit 1028 under FRE 901. Patent Owner further objects to Exhibit 1028 as irrelevant under FRE 401-403.

E. Exhibit 1029 (Definition of “Within,” Random House Unabridged Dictionary (2d ed., 1993))

Exhibit 1029 purports to be a dictionary definition of “within.” Patent Owner objects to Exhibit 1029 as hearsay because Petitioner and its declarant rely on it for its truth, namely, to prove the meaning of “within.” Patent Owner also objects that Petitioner has not authenticated Exhibit 1029 under FRE 901. Patent Owner further objects to Exhibit 1029 as irrelevant under FRE 401-403.

F. Exhibit 1030 (Definition of “Within,” American Heritage Dictionary (4th ed. 2000))

Exhibit 1030 purports to be a dictionary definition of “within.” Patent Owner objects to Exhibit 1030 as hearsay because Petitioner and its declarant rely on it for its truth, namely, to prove the meaning of “within.” Patent Owner also objects that Petitioner has not authenticated Exhibit 1030 under FRE 901. Patent Owner further objects to Exhibit 1030 as irrelevant under FRE 401-403.

G. Exhibit 1031 (Definition of “Aperture,” printout of <https://www.dictionary.com/browse/aperture>)

Exhibit 1031 purports to be a dictionary definition of “aperture.” Patent Owner objects to Exhibit 1031 as hearsay because Petitioner and its declarant rely on it for its truth, namely, to prove the meaning of “aperture.” Patent Owner also

objects that Petitioner has not authenticated Exhibit 1031 under FRE 901. Patent Owner further objects to Exhibit 1031 as irrelevant under FRE 401-403.

H. Exhibit 1032 (Definition of “Aperture,” printout of <https://dictionary.cambridge.org/us/dictionary/english/aperture>)

Exhibit 1032 purports to be a dictionary definition of “aperture.” Patent Owner objects to Exhibit 1032 as hearsay because Petitioner and its declarant rely on it for its truth, namely, to prove the meaning of “aperture.” Patent Owner also objects that Petitioner has not authenticated Exhibit 1032 under FRE 901. Patent Owner further objects to Exhibit 1032 as irrelevant under FRE 401-403.

I. Exhibit 1033 (Deposition Transcript of Stephen Wereley, Ph.D. (September 10, 2024))

Patent Owner objects to Exhibit 1033 for each of the reasons noted in the objections made during the underlying deposition.

J. Exhibit 1034 (Ex. 1022 of IPR2022-01347 – Deposition Transcript of Stephen Wereley, Ph.D. (July 19, 2023))

Patent Owner objects to Exhibit 1034 for each of the reasons noted in the objections made during the underlying deposition. Patent Owner further objects to Exhibit 1034 as irrelevant under FRE 401-403 to the extent Petitioner seeks to argue that testimony from one proceeding is relevant in another proceeding when the issue or issues are not the same.

K. Exhibit 1035 (U.S. Patent Publication No. 2009/0216213 to Muir et al. (“Muir”))

Patent Owner objects to Exhibit 1035 as irrelevant under FRE 401-403.

L. Exhibit 1036 (U.S. Patent Publication No. 2009/0212003 to Gudmundsson (“Gudmundsson”))

Patent Owner objects to Exhibit 1036 as irrelevant under FRE 401-403.

M. Exhibit 1037 (Patent Owner Response in IPR2022-01347)

Patent Owner objects to Exhibit 1037 as irrelevant under FRE 401-403 to the extent Petitioner seeks to argue that a response from one proceeding is relevant in another proceeding when the issue or issues are not the same.

N. Exhibit 1038 (Ex. 2012 of IPR2022-01347 – Declaration of Michael Metzker, Ph.D.)

Patent Owner objects to Exhibit 1038 as irrelevant under FRE 401-403 to the extent Petitioner seeks to argue that testimony from one proceeding is relevant in another proceeding when the issue or issues are not the same.

O. Exhibit 1039 (Ex. 2013 of IPR2022-01347 – Declaration of Steven Wereley, Ph.D.)

Patent Owner objects to Exhibit 1039 as irrelevant under FRE 401-403 to the extent Petitioner seeks to argue that testimony from one proceeding is relevant in another proceeding when the issue or issues are not the same.

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Date: October 1, 2024

By: /Mehran Arjomand/
Mehran Arjomand, Reg. No. 48,231
MORRISON & FOERSTER LLP
707 Wilshire Boulevard, Suite 6000
Los Angeles, California 90017
T: (213) 892-5630
E: marjomand@mofo.com

Counsel for Patent Owner

Certificate of Service (37 C.F.R. § 42.6(e)(4))

I hereby certify that the attached PATENT OWNER'S OBJECTIONS TO EVIDENCE SUBMITTED WITH THE PETITIONER'S OPPOSITION TO PATENT OWNER'S NON-CONTINGENT MOTION TO AMEND was served as of the below date on the Petitioner via e-mail (by agreement) to the following counsel of record:

Ali S. Razai (Reg. No. 60,771)
Joseph F. Jennings (Reg. No. 40,664)
Paul N. Conover (Reg. No. 44,087)
Benjamin J. Everton (Reg. No. 60,659)
Benjamin B. Anger (Reg. No. 62,207)
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, CA 92614
Ph: 949-760-0404
Email: BoxSpectrum8@knobbe.com

Dated: October 1, 2024

/Mehran Arjomand/
Mehran Arjomand, Reg. No. 48,231