

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. IPR2024-00004
U.S. Patent No. 11,491,835

**PATENT OWNER'S OBJECTION TO EVIDENCE
UNDER 37 C.F.R. § 42.64**

Patent Owner Nuhn Industries Ltd. (“Nuhn”) objects to the admissibility of the documents submitted by Petitioner Bazooka-Farmstar, LLC (“Bazooka”) with its Opposition to Patent Owner’s Revised Motion to Amend U.S. Patent No. 11,491,835 (Paper No. 47). Specifically, Nuhn objects to the following listing of Exhibits submitted by Petitioner and basis for objecting:

Exhibit No.	Description of Petitioner’s Exhibit	Basis for Objection
EX1158	Deposition Transcript of Benny D. Puck, Taken on December 5, 2024	37 C.F.R. § 42.61(a), 37 C.F.R. § 42.62(a) and FRE 602 to the extent that certain testimony was not made based on personal knowledge. 37 C.F.R. § 42.61(a), 37 C.F.R. § 42.62(a) and FRE 701 to the extent that certain testimony provides an opinion of a lay witness who is not properly qualified to provide such an opinion because it requires scientific, technical, or other specialized knowledge within the scope of FRE 702. 37 C.F.R. § 42.61(a), 37 C.F.R. § 42.62(a) and FRE 701 to the extent that certain testimony provides an opinion that is not rationally based on the witness’s perception or helpful to clearly understand the witness’s testimony or to determining a fact in issue.

		35 U.S.C. 311(b); 37 C.F.R. §42.61(a), 37 C.F.R. §42.62, 37 C.F.R. §42.104(b)(2) and one or more of FRE 402 or 403 to the extent the testimony is being used as evidence to establish what the prior is or was at the relevant time and itself is not a patent or printed publication and therefore beyond the proper scope of prior art the Board has the authority to consider and issue a ruling on. FRE 801-802 to the extent the testimony is hearsay or based on hearsay rather than the personal knowledge of the declarant.
EX1159	Photographs Depicting the Puck Early Prototype Manure Agitation Boat	35 U.S.C. 311(b); 37 C.F.R. §42.61(a), 37 C.F.R. §42.62, 37 C.F.R. §42.104(b)(2) and one or more of FRE 402, 403, and 901 to the extent the evidence is being used to establish what the prior is or was at the relevant time, has not been properly authenticated, is not itself a patent or printed publication and is therefore beyond the proper scope of prior art the Board has the authority to consider and issue a ruling on, is not actually prior art to the '835 Patent, and/or the

		date of publication and public accessibility of the evidence has not been properly established.
EX1160	<i>Agitation Boats</i> , PUCK CUSTOM ENTERPRISES, INC.	37 C.F.R. §42.61(a), 37 C.F.R. §42.62, 37 C.F.R. §42.104(b)(2) and one or more of FRE 402, 403, and 901 to the extent the evidence is being used to establish what the prior is or was at the relevant time, has not been properly authenticated, is not actually prior art to the '835 Patent, and/or the date of publication and public accessibility of the evidence has not been properly established.
EX1162	Photographs Depicting the Puck Later Prototype Manure Agitation Boat	35 U.S.C. 311(b); 37 C.F.R. §42.61(a), 37 C.F.R. §42.62, 37 C.F.R. §42.104(b)(2) and one or more of FRE 402, 403, and 901 to the extent the evidence is being used to establish what the prior is or was at the relevant time, has not been properly authenticated, is not itself a patent or printed publication and is therefore beyond the proper scope of prior art the Board has the authority to consider and issue a ruling on, is not actually prior art to the '835 Patent, and/or the date of publication and

		public accessibility of the evidence has not been properly established.
EX1163	Photographs Depicting the Assembly of Puck's Production Model Agitation Boats	35 U.S.C. 311(b); 37 C.F.R. §42.61(a), 37 C.F.R. §42.62, 37 C.F.R. §42.104(b)(2) and one or more of FRE 402, 403, and 901 to the extent the evidence is being used to establish what the prior is or was at the relevant time, has not been properly authenticated, is not itself a patent or printed publication and is therefore beyond the proper scope of prior art the Board has the authority to consider and issue a ruling on, is not actually prior art to the '835 Patent, and/or the date of publication and public accessibility of the evidence has not been properly established.
EX1164	Photographs Depicting Puck's Production Model Agitation Boats	35 U.S.C. 311(b); 37 C.F.R. §42.61(a), 37 C.F.R. §42.62, 37 C.F.R. §42.104(b)(2) and one or more of FRE 402, 403, and 901 to the extent the evidence is being used to establish what the prior is or was at the relevant time, has not been properly authenticated, is not itself a patent or printed publication and is therefore beyond the proper scope of prior art the Board has the authority to

		consider and issue a ruling on, is not actually prior art to the '835 Patent, and/or the date of publication and public accessibility of the evidence has not been properly established.
EX1165	Video Depicting Puck's Production Model Agitation Boat	35 U.S.C. 311(b); 37 C.F.R. §42.61(a), 37 C.F.R. §42.62, 37 C.F.R. §42.104(b)(2) and one or more of FRE 402, 403, and 901 to the extent the evidence is being used to establish what the prior is or was at the relevant time, has not been properly authenticated, is not itself a patent or printed publication and is therefore beyond the proper scope of prior art the Board has the authority to consider and issue a ruling on, is not actually prior art to the '835 Patent, and/or the date of publication and public accessibility of the evidence has not been properly established.
EX1166	Video Depicting Puck's Production Model Agitation Boat	35 U.S.C. 311(b); 37 C.F.R. §42.61(a), 37 C.F.R. §42.62, 37 C.F.R. §42.104(b)(2) and one or more of FRE 402, 403, and 901 to the extent the evidence is being used to establish what the prior is or was at the relevant time, has not been properly authenticated, is not itself a

		patent or printed publication and is therefore beyond the proper scope of prior art the Board has the authority to consider and issue a ruling on, is not actually prior art to the '835 Patent, and/or the date of publication and public accessibility of the evidence has not been properly established.
EX1168	Photographs Depicting the 2012 North American Manure Expo	35 U.S.C. 311(b); 37 C.F.R. §42.61(a), 37 C.F.R. §42.62, 37 C.F.R. §42.104(b)(2) and one or more of FRE 402, 403, and 901 to the extent the evidence is being used to establish what the prior is or was at the relevant time, has not been properly authenticated, is not itself a patent or printed publication and is therefore beyond the proper scope of prior art the Board has the authority to consider and issue a ruling on, is not actually prior art to the '835 Patent, and/or the date of publication and public accessibility of the evidence has not been properly established.
EX1169	Affidavit of Nathaniel E. Frank-White Regarding the J. Houle & Fils Inc. Webpage, Dated June 19, 2023	Page 17 – 35 U.S.C. 311(b); 37 C.F.R. §42.61(a), 37 C.F.R. §42.62, 37 C.F.R. §42.104(b)(2) and one or more of FRE 402,

		403, and 901 to the extent the evidence is being used to establish what the prior is or was at the relevant time, has not been properly authenticated, is not actually prior art to the '835 Patent, and/or the date of publication and public accessibility of the evidence has not been properly established.
EX1172	CAD Image Depicting Lagoon Crawler Bottom View, Produced as NUHN15000127402 in the '015 Litigation	37 C.F.R. §42.61(a), 37 C.F.R. §42.62, 37 C.F.R. §42.104(b)(2) and one or more of FRE 402, 403, and 901 to the extent the evidence has not been properly authenticated, is being used in leu of the '835 Patent drawings, and/or is irrelevant.
EX1173	CAD Image Depicting Lagoon Crawler Top View, Produced as NUHN15000127407 in the '015 Litigation	37 C.F.R. §42.61(a), 37 C.F.R. §42.62, 37 C.F.R. §42.104(b)(2) and one or more of FRE 402, 403, and 901 to the extent the evidence has not been properly authenticated, is being used in leu of the '835 Patent drawings, and/or is irrelevant.
EX1174	Declaration of Eric Winkel in Support of Petitioner's Opposition to Patent Owner's Revised Motion to Amend, Dated October 1, 2024	37 C.F.R. §42.61(a), 37 C.F.R. §42.61(a), and one or more of FRE 401, 402, 403 702, 703 and/or 705 because Dr. Winkel is not qualified to

		opine as a POSITA and/or because Dr. Winkel offers opinions on matters that he is not qualified as an expert on based on his own personal background, experience, and training. 35 U.S.C. 311(b); 37 C.F.R. §42.61(a), 37 C.F.R. §42.62, 37 C.F.R. §42.104(b)(2) and one or more of FRE 402 or 403 to the extent the testimony is being used as evidence to establish what the prior is or was at the relevant time and itself is not a patent or printed publication and therefore beyond the proper scope of prior art the Board has the authority to consider and issue a ruling on. FRE 801-802 to the extent the testimony is hearsay or based on hearsay rather than the personal knowledge of the declarant.
EX1176	Deposition Transcript of Maurice Bryham, Taken on October 29, 2024	37 C.F.R. § 42.61(a), 37 C.F.R. § 42.62(a) and FRE 602 to the extent that certain testimony was not made based on personal knowledge. 37 C.F.R. § 42.61(a), 37 C.F.R. § 42.62(a) and FRE 701 to the extent that certain

		testimony provides an opinion of a lay witness who is not properly qualified to provide such an opinion because it requires scientific, technical, or other specialized knowledge within the scope of FRE 702. 37 C.F.R. § 42.61(a), 37 C.F.R. § 42.62(a) and FRE 701 to the extent that certain testimony provides an opinion that is not rationally based on the witness's perception or helpful to clearly understand the witness's testimony or to determining a fact in issue. 35 U.S.C. 311(b); 37 C.F.R. §42.61(a), 37 C.F.R. §42.62, 37 C.F.R. §42.104(b)(2) and one or more of FRE 402 or 403 to the extent the testimony is being used as evidence to establish what the prior is or was at the relevant time and itself is not a patent or printed publication and therefore beyond the proper scope of prior art the Board has the authority to consider and issue a ruling on. FRE 801-802 to the extent the testimony is hearsay or based on hearsay rather than
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		the personal knowledge of the declarant.
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Patent Owner's objections herein are timely under 37 C.F.R. § 42.64(b)(1).

Patent Owner serves Petitioner with these Objections to provide notice that Patent Owner will move to exclude the above -identified exhibits as improper evidence.

Dated: December 30, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. 42.6(e), I certify that on this 30th day of December 2024, a true and correct copy of the foregoing **PATENT OWNER'S OBJECTION TO EVIDENCE UNDER 37 C.F.R. § 42.64** was served by electronic mail on Petitioner's lead and backup counsel at the following addresses:

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