

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JUUL LABS, INC.,
Petitioner,
v.
NJOY, LLC,
Patent Owner.

Case 2024-00161
U.S. Patent No. 10,334,881

**PATENT OWNER'S OBJECTIONS TO
ADMISSIBILITY OF EVIDENCE SUBMITTED BY PETITIONER**

Pursuant to 37 C.F.R. § 42.64(b), Patent Owner NJOY, LLC, hereby objects as follows to the admissibility of evidence filed by Petitioner JUUL Labs, Inc. in conjunction with the Petition, filed on November 8, 2023.

Evidence	Objections
Exhibit 1002	FRE 802: To the extent the prosecution history includes declarations, affidavits, or the like, they are inadmissible hearsay to the extent they are offered for the truth of the matter asserted and the declarant is not made available for deposition.
Exhibit 1003	FRE 105: To the extent that any portion of this exhibit may be deemed admissible, such admissibility should be for a limited purpose. FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence.
Exhibit 1004	FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.
Exhibit 1005	FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.

Evidence	Objections
Exhibit 1006	FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.
Exhibit 1007	FRE 105: To the extent that any portion of this exhibit may be deemed admissible, such admissibility should be for a limited purpose. FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence. FRE 701/702 and/or 37 C.F.R. § 42.65: The opinion testimony offered in this exhibit is not based on scientific, technical, or other specialized knowledge, and is also not based on personal knowledge. The opinion testimony fails to properly disclose the underlying facts or data on which the opinion is based. FRE 802: The entirety of the exhibit is inadmissible hearsay to the extent it is offered for the truth of the matter asserted unless the declarant is made available for deposition.
Exhibit 1008	FRE 402: The exhibit is not relevant to any ground upon which trial was instituted.

Evidence	Objections
	FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence. FRE 802: The entirety of the exhibit is inadmissible hearsay to the extent it is offered for the truth of the matter asserted. FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.
Exhibit 1009	FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence. FRE 802: The entirety of the exhibit is inadmissible hearsay to the extent it is offered for the truth of the matter asserted. FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.
Exhibit 1010	FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the

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	danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence. FRE 802: The entirety of the exhibit is inadmissible hearsay to the extent it is offered for the truth of the matter asserted. FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.
Exhibit 1011	FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence. FRE 802: The entirety of the exhibit is inadmissible hearsay to the extent it is offered for the truth of the matter asserted. FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.
Exhibit 1012	FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence.

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	FRE 802: The entirety of the exhibit is inadmissible hearsay to the extent it is offered for the truth of the matter asserted. FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.
Exhibit 1013	FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence. FRE 802: The entirety of the exhibit is inadmissible hearsay to the extent it is offered for the truth of the matter asserted. FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.
Exhibit 1014	FRE 105: To the extent that any portion of this exhibit may be deemed admissible, such admissibility should be for a limited purpose. FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the

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	danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence. FRE 802: The entirety of the exhibit is inadmissible hearsay to the extent it is offered for the truth of the matter asserted.
Exhibit 1015	FRE 105: To the extent that any portion of this exhibit may be deemed admissible, such admissibility should be for a limited purpose. FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence.
Exhibit 1016	FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence. FRE 802: The entirety of the exhibit is inadmissible hearsay to the extent it is offered for the truth of the matter asserted.

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	FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.
Exhibit 1017	FRE 105: To the extent that any portion of this exhibit may be deemed admissible, such admissibility should be for a limited purpose. FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence. FRE 701: The opinion testimony offered in this exhibit is not based on personal knowledge. FRE 802: The entirety of the exhibit is inadmissible hearsay unless the declarant is made available for deposition. FRE 701/702 and/or 37 C.F.R. § 42.65: The opinion testimony offered in this exhibit is not based on scientific, technical, or other specialized knowledge, and is also not based on personal knowledge. The opinion testimony fails to properly disclose the underlying facts or data on which the opinion is based. FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.

Evidence	Objections
	37 C.F.R. § 42.63: The exhibit fails to comply with the requirements of 37 C.F.R. § 42.63. First, it fails to include a complete translation of the underlying foreign-language document. In particular, Exhibit 1 to the declaration is untranslated. Second, the exhibit also fails to identify the purported translator. Third, the purported declaration and corresponding translation fail to state that “all statements made of the declarant's own knowledge are true and that all statements made on information and belief are believed to be true.”
Exhibit 1018	FRE 105: To the extent that any portion of this exhibit may be deemed admissible, such admissibility should be for a limited purpose. FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit’s probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence.
Exhibit 1019	FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit’s probative value to any ground upon which trial was instituted is substantially outweighed by the

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	danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence.
Exhibit 1020	FRE 105: To the extent that any portion of this exhibit may be deemed admissible, such admissibility should be for a limited purpose. FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence.
Exhibit 1021	FRE 105: To the extent that any portion of this exhibit may be deemed admissible, such admissibility should be for a limited purpose. FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence.

Evidence	Objections
Exhibit 1022	FRE 105: To the extent that any portion of this exhibit may be deemed admissible, such admissibility should be for a limited purpose. FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit’s probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence.
Exhibit 1023	FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit’s probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence. FRE 802: The entirety of the exhibit is inadmissible hearsay to the extent it is offered for the truth of the matter asserted. FRE 701/702 and/or 37 C.F.R. § 42.65: The opinion testimony offered in this exhibit is not based on scientific, technical, or other specialized knowledge, and is also not based on personal knowledge. The opinion testimony fails to properly disclose the underlying facts or data on which the opinion is based.

Evidence	Objections
Exhibit 1024	FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence.
Exhibit 1025	FRE 105: To the extent that any portion of this exhibit may be deemed admissible, such admissibility should be for a limited purpose. FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence. FRE 802: The entirety of the exhibit is inadmissible hearsay to the extent it is offered for the truth of the matter asserted.
Exhibit 1026	FRE 701/702 and/or 37 C.F.R. § 42.65: The opinion testimony offered in this exhibit is not based on scientific, technical, or other specialized knowledge, and is also not based on personal knowledge. The opinion testimony fails to properly disclose the underlying facts or data on which the opinion is based.

Evidence	Objections
	FRE 705 / 37 C.F.R. § 42.65: Exhibit includes expert testimony that does not disclose the underlying facts or data. FRE 802: Portions of this exhibit contain inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein. FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.
Exhibit 1027	FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence. FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.
Exhibit 1028	FRE 701/702 and/or 37 C.F.R. § 42.65: The opinion testimony offered in this exhibit is not based on scientific, technical, or other specialized knowledge, and is also not based on personal knowledge. The opinion testimony fails to properly disclose the underlying facts or data on which the opinion is based. FRE 705 / 37 C.F.R. § 42.65: Exhibit includes expert testimony that does not disclose the underlying facts or data.

Evidence	Objections
	FRE 802: Portions of this exhibit contain inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein. FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.
Exhibit 1029	FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence. FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.
Exhibit 1030	37 C.F.R. § 42.63: The exhibit fails to include a complete translation of the underlying foreign-language document. In particular, the exhibit purports to be an affidavit attesting to the accuracy of a translation of CN201085044, but the exhibit referenced therein (Ex. 1004) is not CN201085044. Thus, the affidavit is unclear as to the translation for which it is attesting accuracy. FRE 701/702 and/or 37 C.F.R. § 42.65: The opinion testimony offered in this exhibit is not based on scientific, technical, or

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	other specialized knowledge, and is also not based on personal knowledge. The opinion testimony fails to properly disclose the underlying facts or data on which the opinion is based. FRE 705 / 37 C.F.R. § 42.65: Exhibit includes expert testimony that does not disclose the underlying facts or data. FRE 802: Portions of this exhibit contain inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein. FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.
Exhibit 1031	FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence. FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.
Exhibit 1032	FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the

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Exhibit 1033	FRE 402: The exhibit is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence.

Date: June 10, 2024

By: /Anish R. Desai/
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 10, 2024, the foregoing **PATENT OWNER'S OBJECTIONS TO ADMISSIBILITY OF EVIDENCE SUBMITTED BY PETITIONER** was served via electronic mail, upon the following:

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