

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HILTI AKTIENGESELLSCHAFT,
Petitioner,

v.

SPECIFIED TECHNOLOGIES INC.,
Patent Owner.

Case No. IPR2024-00192
Patent No. 9,157,232

**PATENT OWNER'S OBJECTIONS TO EVIDENCE
SUBMITTED WITH THE PETITION**

Pursuant to 37 C.F.R. § 42.64 and the Federal Rules of Evidence, as applied by the Patent Trial and Appeal Board, Patent Owner Specified Technologies Inc. (“STI” or “Patent Owner”) provides the following objections to evidence submitted by Petitioner Hilti Aktiengesellschaft (“Hilti” or “Petitioner”). These objections are timely served within ten (10) business days of institution of trial pursuant to 37 C.F.R. § 42.64(b)(1).

Exhibit 1003 – Expert Declaration of Milosh Puchovsky

STI objects to Exhibit 1003 to the extent the testimony of Mr. Puchovsky is not cited to or relied upon by the Petitioner in its Petition. *See* 37 C.F.R. § 42.104 (In the Petition, “[t]he Board may exclude or give no weight to the evidence where a party has failed to state its relevance or to identify specific portions of the evidence that support the challenge.”); *Actifo, Inc. v. Delphix Corp.*, IPR2015-00108, Paper 56 at 57 (PTAB Apr. 29, 2016) (excluding evidence not relied upon by the Petition); *SK Innovation Co., Ltd. v. Celgard, LLC*, IPR2014-00679, Paper 58 at 49 (PTAB Sept. 25, 2015) (same). For example, paragraphs 1-8, 11-24, 56, 57, 70, 142, and 143 are not cited to or relied upon in the Petition. Accordingly, this testimony is also irrelevant, misleading, and confusing under Fed. R. Evid. 401-403.

STI also objects to Exhibit 1003 as containing improper expert testimony under Fed. R. Evid. 702. Specifically, Exhibit 1003 contains purported expert testimony regarding construction principles, economic or marketplace pressures, etc.

that are not within Mr. Puchovsky's scientific, technical, or other specialized knowledge. *See* Ex. 1003 at ¶¶ 64-66. Mr. Puchovsky also claims to offer opinions as to which he offers no personal knowledge, which is improper under Fed. R. Evid. 602. *See, e.g.*, Ex. 1003 at ¶ 138.

STI further objects to other portions of Exhibit 1003 to the extent they do not adequately disclose the underlying facts or data on which statements and/or opinions are based, either by (1) providing no citations, (2) failing to cite where in a reference the disclosure supporting the statement and/or opinion can be found, *i.e.*, by providing pin cites, or (3) citing to disclosures or prior analysis that does not support the statement and/or opinion being proffered. For example, Mr. Puchovsky fails to explain how or why a POSITA would understand that a "single piece of intumescent material" would be understood to comprise two L-shaped gasket sections and a connecting strap. *See* Ex. 1003 at ¶ 46. Mr. Puchovsky also fails to explain why a combination of mineral wool and elastomeric spray would be understood by a POSITA to form a type of strap, much less one that "connects two L-shaped angle profiled with L-shaped intumescent gasket sections adhered to the profiles." *Id.* at ¶ 55. *See also id.* at ¶¶ 26, 27, 29, 35, 42-43, 45, 48, 51, 55, 59, 60-69, 75, 79, 80, 83, 85, 86-92, 94, 97, 98, 101-106, 109, 110, 112, 113, 118-120, 122-124, 126-129, 131, 134, 136, and 139.

STI also objects to Exhibit 1003 to the extent it contains inadmissible hearsay under Fed. R. Evid. 801-803. *See, e.g.*, Ex. 1003 at ¶ 117.

STI further objects to Exhibit 1003 to the extent it references unspecified other arguments to support a position. *See, e.g.*, Ex. 1003 at ¶¶ 27 and 141. Accordingly, this testimony is misleading and confusing under Fed. R. Evid. 401-403.

Because many statements and opinions in Exhibit 1003 are unsupported and conclusory, STI further objects to this testimony as irrelevant, misleading, unduly prejudicial, and confusing under Fed. R. Evid. 401-403.

Respectfully submitted,

Dated: May 29, 2024

By: /s/ Lukas Toft
Lukas Toft
Reg. No. 75,311
Counsel for Patent Owner
Specified Technologies Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of May, 2024, a copy of the foregoing was served by electronic mail on Petitioner's counsel, lead and back-up, as follows:

Lead Counsel

Michael A. Dorfman, Reg. No. 46,669
mdorfman@gardellagrace.com

Back-up Counsel

W. Cook Alciati (*Pro Hac Vice*)
calciati@gardellagrace.com

Dated: May 29, 2024

By: /s/ Lukas Toft
Lukas Toft
Reg. No. 75,311
Counsel for Patent Owner
Specified Technologies Inc.