

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HILTI AKTIENGESELLSCHAFT,
Petitioner,

v.

SPECIFIED TECHNOLOGIES INC.,
Patent Owner.

Case No. IPR2024-00193
Patent No. 10,143,868

**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 Petitioner); *SK Innovation Co., Ltd. v. Celgard, LLC*, IPR2014-00679, Paper 58 at 49 (PTAB Sept. 25, 2015) (same). For example, paragraphs 1-7, 11-24, 39, 107, and 144 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 and manufacturing costs, economic or marketplace

pressures, etc. that are not within Mr. Puchovsky's scientific, technical, or other specialized knowledge. *See* Ex. 1003 at ¶ 81. 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 ¶¶ 47 (claiming to understand the intent of an argument presented by Patent Owner), 156-159 (claiming the Examiner overlooked prior art teachings).

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. *See, e.g.*, Ex. 1003 at ¶¶ 26, 32, 33, 40, 43, 46, 47, 50, 52, 53, 55, 64, 67, 68, 71, 76-84, 86, 88-90, 92, 93, 97, 99, 106, 112, 113, 119, 123-126, 143, 147, 151, 157, and 158.

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.

Exhibit 1006 (3M Fire Protection Products Publication) and Exhibit 1022 (Screen capture of The Wayback Machine Archive of the below URL: <https://web.archive.org/web/20151123164531/http://multimedia.3m.com/mws/media/446191O/3mtm-fire-barrier-pass-through-device.pdf>)

STI objects to Exhibits 1006 and 1022 as lacking authentication as required under Fed. R. Evid. 901-902. Rule 901 requires that the “proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is.” Petitioner provides no evidentiary foundation for these documents, nor does Petitioner otherwise attempt to authenticate them.

The Simon Declaration (Exhibit 1019) does not serve to authenticate Exhibits 1006 or 1022, at least because Mr. Simon did not testify as to authenticity of the documents and lacks the personal knowledge (required under Fed. R. Evid. 602) to do so. Further, to the extent Mr. Simon testified as to the availability of Exhibits 1006 and 1022, he also has no personal knowledge of the date upon which Exhibit 1006 was publicly available. *See* Ex. 1019 at ¶ 3 (speculating that Exhibit 1006 “would have been widely distributed in the firestopping industry”).

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

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Dated: May 29, 2024

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