

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NJOY, LLC and NJOY HOLDINGS, INC.,
Petitioners,

v.

JUUL LABS, INC.,
Patent Owner.

IPR2024-00231
U.S. Patent No. 10,130,123

**PETITIONERS' OBJECTIONS TO
ADMISSIBILITY OF EVIDENCE SUBMITTED BY PATENT OWNER**

Pursuant to 37 C.F.R. § 42.64(b), Petitioners NJOY, LLC, and NJOY Holdings, Inc., hereby object as follows to the admissibility of evidence filed by Patent Owner JUUL Labs, Inc. in conjunction with the Patent Owner Preliminary Response, filed on March 14, 2024, and the Patent Owner Response, filed on September 4, 2024.

Evidence	Objections
Exhibit 2001	FRE 702: Petitioner objects to this exhibit to the extent it is irrelevant, not based on a reliable foundation, and constitutes conclusory opinions without sufficient support. FRE 801: Petitioner objects to this exhibit because it is inadmissible hearsay unless the declarant is made available for deposition.
Exhibit 2002	FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801.
Exhibit 2003	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2004	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. FRE 602: Petitioner objects to this exhibit because Patent Owner does not provide a foundation for this exhibit.
Exhibit 2005	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. FRE 602: Petitioner objects to this exhibit because Patent Owner does not provide a foundation for this exhibit. This exhibit is not cited in the POPR, Sur-Reply or expert declaration.

Evidence	Objections
Exhibit 2006	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. FRE 602: Petitioner objects to this exhibit because Patent Owner does not provide a foundation for this exhibit. This exhibit is not cited in the POPR, Sur-Reply, POR or expert declarations.
Exhibit 2007	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. FRE 602: Petitioner objects to this exhibit because Patent Owner does not provide a foundation for this exhibit.
Exhibit 2008	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. FRE 602: Petitioner objects to this exhibit because Patent Owner does not provide a foundation for this exhibit.
Exhibit 2009	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2010	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues.

Evidence	Objections
	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2011	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2012	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2013	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2014	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues.

Evidence	Objections
	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2015	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2016	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2017	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2018	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues.

Evidence	Objections
	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2019	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2020	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2021	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2022	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues.

Evidence	Objections
	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2024	FRE 403: The exhibit’s probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2025	FRE 403: The exhibit contains testimony for which the probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. FRE 701 and 702: Petitioner objects to this exhibit because it includes opinion testimony of lay witness without meeting the requirement of FRE 701 and Patent Owner fails to establish the witness as an expert under FRE 702.
Exhibit 2026	FRE 403: The exhibit contains testimony for which the probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. FRE 701 and 702: Petitioner objects to this exhibit because it includes opinion testimony of lay witness without meeting the requirement of FRE 701 and Patent Owner fails to establish the witness as an expert under FRE 702.
Exhibit 2027	FRE 403: The exhibit’s probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues.

Evidence	Objections
	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2028	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2029	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2030	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2031	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues.

Evidence	Objections
	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2032	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2033	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2034	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2035	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues.

Evidence	Objections
	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2036	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2037	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2038	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2039	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues.

Evidence	Objections
	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2040	FRE 403: The exhibit’s probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2041	FRE 403: The exhibit contains testimony for which the probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. FRE 701 and 702: Petitioner objects to this exhibit because it includes opinion testimony of lay witness without meeting the requirement of FRE 701 and Patent Owner fails to establish the witness as an expert under FRE 702.
Exhibit 2042	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. FRE 401, 402, and 403: Petitioner objects to this exhibit because it is irrelevant, and its probative value is substantially outweighed by a danger of unfair prejudice.
Exhibit 2043	FRE 403: The exhibit’s probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues.

Evidence	Objections
	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2044	FRE 403: The exhibit's probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.
Exhibit 2045	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. FRE 602: Petitioner objects to this exhibit because Patent Owner does not provide a foundation for this exhibit.
Exhibit 2046	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. FRE 602: Petitioner objects to this exhibit because Patent Owner does not provide a foundation for this exhibit.
Exhibit 2047	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.

Evidence	Objections
Exhibit 2048	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. FRE 602: Petitioner objects to this exhibit because Patent Owner does not provide a foundation for this exhibit.
Exhibit 2049	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. FRE 602: Petitioner objects to this exhibit because Patent Owner does not provide a foundation for this exhibit.
Exhibit 2050	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. FRE 602: Petitioner objects to this exhibit because Patent Owner does not provide a foundation for this exhibit.
Exhibit 2051	FRE 901: Petitioner objects to this exhibit because Patent Owner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit. FRE 801: Petitioner objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. FRE 602: Petitioner objects to this exhibit because Patent Owner does not provide a foundation for this exhibit.
Exhibit 2052	FRE 401, 402, and 403: Petitioner objects to this exhibit because it is irrelevant, and its probative value is substantially outweighed by a danger of unfair prejudice. FRE 602: Petitioner objects to this exhibit because Patent Owner does not provide a foundation for this exhibit.

Evidence	Objections
Exhibit 2053	FRE 702: Petitioner objects to this exhibit to the extent it is irrelevant, not based on a reliable foundation, and constitutes conclusory opinions without sufficient support. FRE 801: Petitioner objects to this exhibit because it is inadmissible hearsay unless the declarant is made available for deposition.
Exhibit 2054	FRE 401, 402, and 403: Petitioner objects to this exhibit because it is outside the instituted grounds.

Date: September 11, 2024

By: /Anish R. Desai/
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 11, 2024, the foregoing
**PETITIONERS' OBJECTIONS TO ADMISSIBILITY OF EVIDENCE SUBMITTED BY
PATENT OWNER** was served via electronic mail, upon the following:

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