UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NESPRESSO USA, INC.
Petitioner

v.

K-FEE SYSTEM GMBH
Patent Owner

Case No. IPR2024-00257
U.S. Patent No. 11,548,722

PATENT OWNER'S OBJECTIONS TO EVIDENCE SUBMITTED WITH PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

Pursuant to 37 C.F.R. § 42.64(b), Patent Owner K-fee System GmbH ("K-fee") respectfully asserts the following objections to the evidence proffered with Petitioner's Reply to Patent Owner's Response ("Reply") filed by Petitioner Nespresso USA, Inc. ("Nespresso") on December 23, 2024 regarding the claims of U.S. Patent No. 11,548,722 (the "'722 Patent"). The Federal Rules of Evidence ("FRE") apply to these proceedings according to the provisions of 37 C.F.R. § 42.62(a), and these rules, along with relevant case law and PTAB Rules, form the basis of objections contained herein. Patent Owner's objections apply equally to Petitioner's reliance on or citation to any objected-to evidence in its papers, including expert declarations. These objections are being served and filed within five (5) business days from the service of evidence to which the objections are directed. 37 C.F.R. § 42.64(b)(1).

Evidence	Description
Ex. 1067	Exhibit 1067 is U.S. Patent Pub. US 2015/0289709 A1. Patent Owner objects to this exhibit as not authenticated, *e.g.*, under FRE 901. For instance, Patent Owner has not produced evidence sufficient to support a finding that the exhibit is what Patent Owner claims it is, including that it existed as of the date claimed. Patent Owner objects to this exhibit as irrelevant under FRE 402, and prejudicial, misleading, confusing, and/or a waste of time under FRE 403.

Evidence	Description
Ex. 1068	Exhibit 1068 is U.S. Patent No. US 11,565,930 B2. Patent Owner objects to this exhibit as not authenticated, *e.g.*, under FRE 901. For instance, Patent Owner has not produced evidence sufficient to support a finding that the exhibit is what Patent Owner claims it is, including that it existed as of the date claimed. Patent Owner further objects to this exhibit as irrelevant under FRE 402, and prejudicial, misleading, confusing, and/or a waste of time under FRE 403.
Ex. 1069	Exhibit 1069 is U.S. Patent No. US 10,800,600 B2. Patent Owner objects to this exhibit as not authenticated, *e.g.*, under FRE 901. For instance, Patent Owner has not produced evidence sufficient to support a finding that the exhibit is what Patent Owner claims it is, including that it existed as of the date claimed. Patent Owner further objects to this exhibit as irrelevant under FRE 402, and prejudicial, misleading, confusing, and/or a waste of time under FRE 403.
Ex. 1070	Exhibit 1070 is the In Chambers Tentative Ruling on Markman/Claim Construction dated December 13, 2024 in *K-fee Sys. GmbH v. Nespresso USA, Inc., et al.*, Case No. CV 21-3402-GW-AGRx (CONSOLIDATED). Patent Owner objects to this exhibit as not authenticated, *e.g.*, under FRE 901. For instance, Patent Owner has not produced evidence sufficient to support a finding that the exhibit is what Patent Owner claims it is, including that it existed as of the date claimed. Patent Owner objects to this exhibit as a non-final and incomplete Court Order under FRE 106.

Evidence	Description
Ex. 1072	Exhibit 1072 is the Reply Declaration of Michael Jobin. Patent Owner objects to this exhibit under FRE 702 because the witness is not qualified as an expert on the subject matter at issue by knowledge, skill, experience, training, or education. Patent Owner also objects to this exhibit as not based on sufficient facts or data under FRE 702(b); as not being the product of reliable principles and methods under FRE 702(c); and as not reliably applying the principles and methods to the facts of this case under FRE 702(d). Patent Owner further objects to this exhibit as irrelevant under FRE 402, and prejudicial, misleading, confusing, and/or a waste of time under FRE 403.
Ex. 1073	Exhibit 1073 is U.S. Patent No. US 11,148,876 B2. Patent Owner objects to this exhibit as not authenticated, *e.g.*, under FRE 901. For instance, Patent Owner has not produced evidence sufficient to support a finding that the exhibit is what Patent Owner claims it is, including that it existed as of the date claimed. Patent Owner further objects to this exhibit as irrelevant under FRE 402, and prejudicial, misleading, confusing, and/or a waste of time under FRE 403.
Ex. 1074	Exhibit 1074 is DE 10 2005 007 852 A1. Patent Owner objects to this exhibit as not authenticated, *e.g.*, under FRE 901. For instance, Patent Owner has not produced evidence sufficient to support a finding that the exhibit is what Patent Owner claims it is, including that it existed as of the date claimed. Moreover, Patent Owner has not produced a certified translation of this exhibit from German to English.

Evidence	Description
	Patent Owner further objects to this exhibit as irrelevant under FRE 402, and prejudicial, misleading, confusing, and/or a waste of time under FRE 403.

Date: December 31, 2024

Respectfully submitted,

By: */Douglas Carsten/*
Douglas Carsten, Lead Counsel
Reg. No. 43,534
Attorneys/Agents for Patent Owner

CERTIFICATE OF SERVICE

I hereby certify, pursuant to 37 C.F.R. § 42.6, that on December 31, 2024, a complete copy of the foregoing document was served upon the following by ELECTRONIC MAIL:

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Date: December 31, 2024

Respectfully submitted,

/Douglas Carsten/
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