UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NEURENT MEDICAL INC. & NEURENT MEDICAL LTD.

Petitioners,

v.

THE FOUNDRY, LLC,

Patent Owner.

Case No. IPR2024-00280

U.S. Patent No. 10,894,011

PETITIONERS' OBJECTIONS TO EVIDENCE UNDER 37 C.F.R. § 42.64

Pursuant to 37 C.F.R. § 42.64, Petitioners Neurent Medical Inc. and Neurent Medical Ltd. (collectively, "Neurent" or "Petitioners") submit the following objections to evidence served with Patent Owner's Response on October 25, 2024. Petitioners' objections apply equally to Patent Owner's reliance on these exhibits in any subsequently-filed documents. These objections are timely, having been filed within five business days of Patent Owner serving the evidence. *See* 37 C.F.R. § 42.64.

A. Exhibit 2001

Petitioners object to Exhibit 2001 under Federal Rule of Evidence ("FRE") 106 as being an incomplete document. Only one chapter is provided for this document, and therefore the content of the other pages in this document is unclear.

Petitioners further object to Exhibit 2001 as hearsay under FRE 801, 802, and 803 to the extent that Patent Owner attempts to use Exhibit 2001 for the truth of the matters asserted therein.

Petitioners further object to Exhibit 2001 under FRE 901 because this exhibit lacks authentication and foundation. Exhibit 2001 is also not self-authenticating under FRE 902, and Patent Owner has not produced evidence sufficient to support a finding that Exhibit 2001 is what Patent Owner says it is.

B. Exhibit 2002

Petitioners preserve and restate their objections to specific portions of Dr. BuSaba's cross-examination testimony taken during the deposition on October 17, 2024. To the extent Patent Owner has relied or will rely on portions of the testimony that were objected to during the deposition, Petitioners maintain those objections and the grounds for such objections. Petitioners also reserve the right to serve an errata for Dr. BuSaba's deposition transcript, and object to portions of the transcript on which Patent Owner relies that are subject to the errata.

C. Exhibit 2003

Petitioners object to Exhibit 2003 under FRE 702 because the opinions contained therein are conclusory and lack sufficient explanation. The opinions are not based on sufficient facts or data and are not the product of reliable principles and methods reliably applied to the facts of the case. *See* 37 C.F.R. § 42.65. To the extent that Exhibit 2003 purports to provide legal conclusions, Petitioners object under FRE 702.

D. Exhibit 2005

Petitioners object to Exhibit 2005 under FRE 702 because the opinions contained therein are conclusory and lack sufficient explanation. The opinions are not based on sufficient facts or data and are not the product of reliable principles and

methods reliably applied to the facts of the case. *See* 37 C.F.R. § 42.65. To the extent that Exhibit 2005 purports to provide legal conclusions, Petitioners object under FRE 702.

E. Exhibit 2007

Petitioners further object to Exhibit 2007 as hearsay under FRE 801, 802, and 803 to the extent that Patent Owner attempts to use Exhibit 2007 for the truth of the matters asserted therein.

Petitioners further object to Exhibit 2007 under FRE 901 because this exhibit lacks authentication and foundation. Exhibit 2007 is also not self-authenticating under FRE 902, and Patent Owner has not produced evidence sufficient to support a finding that Exhibit 2007 is what Patent Owner says it is.

F. Exhibit 2008

Petitioners object to Exhibit 2008 under FRE 401, 402, and 403 as lacking relevance and because its probative value is substantially outweighed by the dangers of unfair prejudice, confusing the issues, misleading the fact finder, undue delay, wasting time, and/or needlessly presenting cumulative evidence.

Petitioners further object to Exhibit 2008 as hearsay under FRE 801, 802, and 803 to the extent that Patent Owner attempts to use Exhibit 2008 for the truth of the matters asserted therein.

Petitioners further object to Exhibit 2008 under FRE 901 because this exhibit lacks authentication and foundation. Exhibit 2008 is also not self-authenticating under FRE 902, and Patent Owner has not produced evidence sufficient to support a finding that Exhibit 2008 is what Patent Owner says it is.

Respectfully submitted,

By: /David L. Cavanaugh/
David L. Cavanaugh
Registration No. 36,476

Counsel for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that, on November 1, 2024, I caused a true and correct copy of the following materials:

- Petitioners' Objections to Evidence Under 37 C.F.R. § 42.64

to be served on Patent Owner via electronic mail to:

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