

IPR2024-00300
Patent No. 11,560,770

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTELLIGENT WELLHEAD SYSTEMS, INC.,
Petitioner,

v.

DOWNING WELLHEAD EQUIPMENT, LLC
Patent Owner

IPR2024-00300
Patent No. 11,560,770

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

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner Intelligent Wellhead Systems, Inc. (“IWS”) makes the following objections to evidence Patent Owner Downing Wellhead Equipment, LLC (“Downing”) submitted with its Patent Owner’s Response (“POR”) filed on September 19, 2024 (Paper 20). The following exhibits are inadmissible under the rules of these proceedings, the Federal Rules of Evidence (“FRE”), or both.

II. EXHIBITS 2008-2010 AND 2014-2030 CONSIST OF INADMISSIBLE HEARSAY

The FRE govern Patent Trial and Appeal Board (“the Board”) proceedings. *See* 37 C.F.R. § 42.62(a). Rules 801-807 of the FRE govern the admissibility of hearsay, which Rule 801 defines as, “a statement that: (1) the declarant does not make while testifying at the current trial or hearing; and (2) a party offers in evidence to prove the truth of the matter asserted in the statement.” F.R.E. 801(c). Absent the applicability of an exception to the rule against hearsay, hearsay is not admissible. FRE 802; *CaptionCall, L.L.C. v. Ultratec, Inc.*, IPR2015-01889, Pap. 119 at 15-18 (PTAB Apr. 11, 2017) (granting motion to exclude hearsay evidence).

Exhibits 2008-2010 and 2014-2030 are statements by non-declarants in the current proceeding (FRE 801(c)(1)) that are offered for the truth of the matter asserted (FRE 801(c)(2)). Such statements are inadmissible hearsay.

III. EXHIBITS 2008-2010 AND 2014-2030 LACK AUTHENTICATION

Petitioner further objects to Exhibits 2008-2010 and 2014-2030 under FRE 901 for lacking authentication. Downing has not provided sufficient authentication or identification to support the claims that the documents are what they purport to be, including proper authentication, such as affidavits from Schlumberger, the Internet Archive, or any other credible source. Additionally, as defined in FRE 902, Exhibits 2008-2010 and 2014-2030 do not fall under any category of self-authenticating documents, which would allow them to be admitted without extrinsic evidence of authenticity. Exhibits 2008-2010 and 2014-2030 are inadmissible due to lack of authentication.

IV. EXHIBITS 2010 AND 2030 AND PORTIONS OF EXHIBIT 2012 ARE NOT RELIED ON IN THE PATENT OWNER'S RESPONSE

Petitioner objects to Exhibits 2010 and 2030 as irrelevant and therefore inadmissible under FRE 401-403 to the extent Patent Owner did not rely on Exhibits 2010 and 2030 in the Patent Owner's Response. Petitioner also objects to Exhibit 2012 (*e.g.*, ¶¶ 28-97, 99, 123-130, 144, 153, 169, 177, 183, 191, 196, and 198) as irrelevant and therefore inadmissible under FRE 401-403 because the identified portions of Exhibit 2012 were not cited or discussed in Patent Owner's Response.

V. EXHIBITS 2012 AND 2032 ARE IMPROPERLY INCORPORATED BY REFERENCE

Petitioner objects to Exhibit 2012 (*e.g.*, ¶¶ 103-107, 113-122, 138-143, 156-160, 165-168, 186-190, 207-211, 219-223, 225-228, 229-232, and 233-239) and

2032 (e.g., ¶¶ 9-28) to the extent portions are improperly incorporated by reference, extend well beyond the proper scope of a response, and are improper attempts to make an end-run around the word-limit applicable to patent owner responses under 37 C.F.R. § 42.24. *See* PTAB August 2018 Trial Practice Guide Update; *Cisco Systems, Inc. v. C-Cation Techs., LLC*, Case IPR2014-00454 (PTAB Aug. 28, 2014) (Paper 12) (informative). As such, the above-identified portions of Exhibits 2012 and 2032 are inadmissible.

VI. CONCLUSION

Petitioner reserves the right to revise, modify, or assert additional or further objections. These objections are made within 5 business days of September 19, 2024, the date of service of the Patent Owner's Response.

Dated: September 26, 2024

Respectfully submitted,

/Tammy J. Terry/

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, I hereby certify that a true and correct copy of the foregoing Petitioner's Objections to Evidence Submitted With Patent Owner's Response was served on September 26, 2024 via Patent Trial and Appeal Case Tracking System (P-TACTS) and via e-mail to the following attorneys of record for the Patent Owner listed below:

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