

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TESLA, INC.,
Petitioner,

v.

GRAPHITE CHARGING COMPANY LLC,
Patent Owner.

Case No. IPR2024-00388

U.S. Patent No. 8,291,243

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

Petitioner hereby objects to the alleged evidence submitted by Patent Owner during the post-institution portion of this *inter partes* review. Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner objects to the alleged evidence on the grounds identified in the table below. These objections are timely, because they are being filed within five business days of the Patent Owner’s Response (*i.e.*, by December 5th). *See* 37 C.F.R. 42.64(b)(1).

Exhibit	Ground(s) for Objection
Ex-2012—Expert Declaration of Dr. Kirk W. Cameron in Support of Patent Owner’s Response	<p>F.R.E. §§ 401, 402, and 403: The paragraphs in Ex-2012 that are not cited in Patent Owner’s Response are irrelevant to this proceeding. <i>See, e.g.</i>, Ex-2012 at ¶¶ 1-30, 32-59, 91-93, 111-112, 131-132, 142-143. Any belated attempt by Patent Owner to rely on any of these irrelevant paragraphs would likely violate at least 37 C.F.R. § 42.6(a)(3).</p> <p>F.R.E. 602, 702, 703: The declarant’s testimony fails to establish that it is based on the kinds of facts or data upon which experts in the field (to the extent Dr. Cameron has ever been properly qualified as an expert in the relevant field) would reasonably rely. And the declarant’s testimony is based on insufficient facts and data and is unreliable. <i>See, e.g.</i>, Ex-2012 ¶¶ 65-68, 90, 105-107, 196.</p> <p>F.R.E. 702: Insufficient showing by Patent Owner that the declarant “is qualified as an expert by knowledge, skill, experience, training or education.”</p>

	<p>F.R.E. 703, 801, 802: Petitioner objects to the declarant’s testimony to the extent it impermissibly acts as a conduit for hearsay not falling under any exception. In addition, to the extent Patent Owner relies on these exhibits for the truth of the matter asserted, Petitioner objects to these exhibits as inadmissible hearsay that does not fall under any exceptions. <i>See, e.g.</i>, ¶¶ 96, 99.</p> <p>37 C.F.R. § 42.65(a): The declarant’s testimony fails to disclose the underlying facts and data on which the opinion is based. <i>See, e.g.</i>, Ex-2012 ¶¶ 65-68, 90, 105-107, 196.</p>
Ex-2013—Deposition of C. Arthur MacCarley, IPR 2024-00387 (Oct. 17, 2024)	<p>F.R.E. §§ 401, 402, and 403: Patent Owner filed as Ex-2013 the entire transcript from a deposition of Petitioner’s expert witness, C. Arthur MacCarley, from another IPR proceeding, related to a different patent and having different grounds based on non-overlapping prior art references. Even if relevant, a danger of unfair prejudice, confusing the issues, and/or wasting time substantially outweighs any probative value.</p> <p>F.R.E. 901, 902 and 37 C.F.R. 42.53(f)(5): The deposition transcript is unsigned and no agreement was made at the deposition to waive reading and signature by the witness. This transcript has not been properly certified and is not self-authenticating.</p>
Ex-2014—Merriam-Webster Online Dictionary (Dec. 1, 2006) (“aggregate”)	F.R.E. § 901: This exhibit is neither authenticated nor self-authenticating.
Ex-2015—Merriam-Webster Online Dictionary (April 25, 2009) (“current”)	F.R.E. § 901: This exhibit is neither authenticated nor self-authenticating.

Dated: December 5, 2024

Respectfully Submitted,

/ Alexander B. Stein /

Alexander B. Stein, Reg. No. 71,397

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e)(4), I certify that on December 5, 2024, I caused to be served via email a true and correct copy of PETITIONER’S OBJECTIONS TO PATENT OWNER’S ALLEGED EVIDENCE SUBMITTED WITH PATENT OWNER’S RESPONSE on Patent Owner’s counsel of record:

Jason Shapiro
jshapiro@devlinlawfirm.com

Michael A. Siem
msiem@devlinlawfirm.com

Cedric C.Y. Tan
ctan@devlinlawfirm.com

Lynn Lehnert
llehnert@devlinlawfirm.com

Nadiia Loizides
nloizides@devlinlawfirm.com

Dated: December 5, 2024

Respectfully Submitted,

/ Alexander B. Stein /

Alexander B. Stein, Reg. No. 71,397