

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BOWMAR ARCHERY LLC,
Petitioner,

v.

MATTHEW FUTTERE,
Patent Owner.

IPR2024-00401
Patent 8,043,177 B2

**PETITIONER'S OBJECTIONS TO EVIDENCE UNDER 37 C.F.R.
§42.64(b)(1)**

Bowmar Archery LLC (“Petitioner”) hereby makes the following objections pursuant to 37 C.F.R. § 42.64(b) to the admissibility of the following documents and exhibits submitted by Matthew Futtere (“Patent Owner”) with its Patent Owner’s Response (POR) on September 25, 2024. Petitioner’s objections apply equally to Patent Owner’s reliance on these exhibits in any subsequently filed documents. Petitioner’s objections are timely under 37 C.F.R. § 42.64(b)(1) because they are filed within five (5) business days of the evidence to which the objection is directed.

I. OBJECTIONS TO PATENT OWNER RESPONSE, PATENT OWNER’S CORRECTED RESPONSE AND EXHIBITS 2008-2014 SUBMITTED THEREWITH AS UNTIMELY

Petitioner objects to Patent Owner’s response (Paper 11), Patent Owner’s corrected response (Paper 12), and exhibits 2008-2014 submitted therewith under 37 C.F.R §§ 42.5 and 42.6. The Patent Owner’s response was due by September 24, 2024. See Paper 8, p. 12. As shown in the PTACTS records below, the Patent Owner’s response, the Patent Owner’s corrected response, and Exhibits 2008-2014 submitted therewith were all untimely filed on September 25, 2024.

39	Patent Owner's Response	Paper	11	09/25/2024	Patent Owner	Public
40	EX 2008 Expert Declaration of Wayne Willkomm Executed	Exhibit	2008	09/25/2024	Patent Owner	Public
41	EX 2009 EX 4 Shooters bible	Exhibit	2009	09/25/2024	Patent Owner	Public
42	EX 2010 24-09-06 - Kuhn_FULL	Exhibit	2010	09/25/2024	Patent Owner	Public
43	EX 2011 Barb Definition & Meaning - Merriam-Webster	Exhibit	2011	09/25/2024	Patent Owner	Public
44	EX 2012 Idaho Law	Exhibit	2012	09/25/2024	Patent Owner	Public
45	EX 2013 White-Tailed and Mule Deer Hunting Guide _ North Dakota Game and Fish	Exhibit	2013	09/25/2024	Patent Owner	Public
46	EX 2014 EX 7- US6695726	Exhibit	2014	09/25/2024	Patent Owner	Public
47	Patent Owner's Response (Corrected Table of Contents)	Paper	12	09/25/2024	Patent Owner	Public

II. ADDITIONAL OBJECTIONS TO SPECIFIC EXHIBITS

Pursuant to 37 C.F.R § 42.64(b)(1), Petitioner objects to the admissibility of the following exhibits filed by Patent Owner with the Patent Owner's response in the above captioned *inter partes* review and provide notice to Patent Owner that Petitioner may move to exclude these exhibits under 37 C.F.R § 42.64(c).

Exhibit No.	Section	Objections
2008	¶¶ 22-35, 53, 60, 66-70, 77-78, 80, 81, 84-85, 87-91, 94, 96-99, 106, 108, 112, and 113	Petitioner objects to the indicated sections under Fed. R. Evid. ("FRE") 401, 402, 403, 702, 703, 801, and 802 because Mr. Willkomm's testimony at this section: (i) will not help the Board understand the evidence or determine a fact in issue; (ii) is irrelevant; (iii) lacks probative value and its probative value is substantially outweighed by the risk of undue prejudice, confusion, misleading of the factfinder, and wasting time; (iv) is not within the expertise of the witness, is not the product of reliable principles and methods that have been reliably applied to the facts of the case, and is not based on sufficient facts or data. See Fed. R. Evid. 702. The indicated sections include unsupported conclusory statements that lack sufficient factual foundation and

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		conclusions that are outside of his expertise or knowledge. <i>Id.</i>
2008	¶¶ 12-22, 36-49, 55-58, 60, 61, 71, 72, 84, and 86	Petitioner objects to the indicated paragraphs as lacking relevance under FRE 401, 402, and 403. Specifically, the Patent Owner Response does not rely on or cite to these paragraphs in any manner. Accordingly, the paragraphs (a) lack any tendency to make a material fact more or less probable than it would be without the paragraphs; (b) are irrelevant; and (c) could confuse the issues and cause unfair prejudice. See Fed. R. Evid. 401, 402, and 403. To the extent Patent Owner attempts to rely on these paragraphs in the future as evidence in support of new substantive positions, doing so would be untimely, in violation of the applicable rules governing this proceeding, and unfairly prejudicial to Petitioner. See Fed. R. Evid. 403.
2008	¶¶ 35 and 77	Petitioner objects to each of these paragraphs under FRE 401, 402, 403, 701, 702 as irrelevant, confusing and a

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		waste of time with respect to any issue in this proceeding as they rely on one or more inadmissible exhibits
2011 2012 2013	All All All	Petitioner objects to each of these exhibits under FRE 401, 402, 403, as irrelevant, confusing and a waste of time with respect to any issue in this proceeding because the purported date of the document is after (or in the case of Ex. 2011 undated) the claimed July 7, 2008 priority date of the ‘177 patent and is thus not reflective of the knowledge or understanding of a person of ordinary skill in the art at the time of the alleged invention of the ‘177 Patent.

Petitioner further objects to paragraphs in the Patent Owner Response that rely on exhibits objected to in Petitioner’s Objection to Evidence.

BANNER & WITCOFF, LTD.

Dated: October 1, 2024

By: /Jason S. Shull/

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CERTIFICATE OF SERVICE

The undersigned certifies service on the Petitioner, pursuant to 37 C.F.R. § 42.6(e), by electronic (e-mail) delivery of a true copy of the foregoing PETITIONER'S OBJECTIONS TO PATENT OWNER'S PRELIMINARY PROCEEDING EVIDENCE, to lead and back-up counsel of record for Petitioner as follows:

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Dated: October 1, 2024

By: /Carlos Goldie/

Carlos Goldie