

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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AIR PRODUCTS AND CHEMICALS, INC.,  
Petitioner

v.

EVONIK OPERATIONS GMBH and EVONIK CORPORATION,  
Patent Owner

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Case IPR2024-00611  
Patent 10,471,380

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**PETITIONER'S OBJECTIONS TO EVIDENCE**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner hereby submits the following objections to evidence filed with Patent Owner's Response on December 12, 2024. The following paragraphs are referenced herein by way of example, and not limitation, and the objections apply to the enumerated paragraphs and any other paragraph incorporating or referencing the following paragraphs.

| Exhibit No. | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| 2008        | <p>Petitioner objects to the admissibility to at least portions of Exhibit 2008 under FRE 401-403 because ¶¶ 34, 40-41, 60-65, 89, 105, 107, 113-115, 120, 122-124, 128, 132, 140 of this exhibit have been offered but were never cited or relied upon in the Patent Owner's Response. There is no explanation of relevance or significance of the above identified portions in the Patent Owner's Response.</p> <p>Petitioner also objects to the admissibility of Exhibit 2008 under FRE 702 and 703, because it contains opinions that are conclusory, do not disclose supporting facts or data, are based on unreliable facts, data, or methods, and/or include</p> |

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|             | <p>testimony outside the scope of Dr. Geise's specialized knowledge (to the extent he has any such knowledge) that will not assist the trier of fact. Petitioner also objects to Exhibit 2008 as containing opinions that are irrelevant, confusing, and presenting the danger of unfair prejudice under FRE 401, 402, and 403.</p>                                                                                |
| <b>2009</b> | <p>Petitioner incorporates the real-time objections made by Petitioner's counsel reflected in Exhibit 2009, to the extent that such objections relate to portions of Exhibit 2009 that are cited in Patent Owner's Response.</p>                                                                                                                                                                                   |
| <b>2010</b> | <p>Petitioner objects to the admissibility of Exhibit 2010 under FRE 401-403 because this exhibit has been offered but was never cited or relied upon in the Patent Owner's Response; thus, there is no explanation of its relevance or significance in the Patent Owner's Response.</p> <p>Petitioner objects to Exhibit 2010 under FRE 901, as Patent Owner has not submitted evidence that this document is</p> |

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|                   | <p>authentic, nor that the document is self-authenticating. There is insufficient support in Exhibit 2010 to show that this document was publicly available before the priority date of the patent. <i>See, e.g., Microsoft Corp. v. Corel Software, LLC</i>, IPR2016-01300 (P.T.A.B. Jan. 4, 2017); <i>ServiceNow, Inc. v. Hewlett-Packard Co.</i>, IPR2015- 00716, Paper No. 13 at 2-3, 10-18 (P.T.A.B. Aug. 26, 2015).</p>                                                                                                                                                                                                                                                  |
| <b>2011, 2012</b> | <p>Petitioner objects to Exhibits 2011 and 2012 under FRE 901, as Patent Owner has not submitted evidence that these documents are authentic, nor that the documents are self-authenticating. There is insufficient support in Exhibits 2011 and 2012 to show that the documents were publicly available before the priority date of the patent. <i>See, e.g., Microsoft Corp. v. Corel Software, LLC</i>, IPR2016-01300 (P.T.A.B. Jan. 4, 2017); <i>ServiceNow, Inc. v. Hewlett-Packard Co.</i>, IPR2015- 00716, Paper No. 13 at 2-3, 10-18 (P.T.A.B. Aug. 26, 2015). Petitioner further objects to Exhibits 2011 and 2012 under FRE 801 and 802 as inadmissible hearsay.</p> |

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|                  | <p>Petitioner also objects to the admissibility of Exhibits 2011 and 2012 under FRE 401, 402, and 403 at least insofar as the Patent Owner Response does not establish the relevance of the statements cited, and at least insofar as the cited statements are potentially misleading when taken out of context.</p>                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>2013-2015</b> | <p>Petitioner objects to the admissibility of Exhibits 2013-2015 under FRE 401-403 because these exhibits have been offered but were never cited or relied upon in the Patent Owner's Response; thus, there is no explanation of their relevance or significance in the Patent Owner's Response.</p> <p>Petitioner objects to Exhibits 2013-2015 under FRE 901, as Patent Owner has not submitted evidence that these documents are authentic, nor that the documents are self-authenticating. Of note, there is insufficient support in the Exhibits 2013-2015 to show that the documents were publicly available before the priority date of the patent. <i>See, e.g., Microsoft Corp. v. Corel Software, LLC</i>, IPR2016-</p> |

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|  | 01300 (P.T.A.B. Jan. 4, 2017); <i>ServiceNow, Inc. v. Hewlett-Packard Co.</i> , IPR2015- 00716, Paper No. 13 at 2-3, 10-18 (P.T.A.B. Aug. 26, 2015). |
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For at least these reasons, Petitioner objects to Exhibits 2008-2015 and reserves the right to move to exclude these exhibits or portions thereof as inadmissible.

Respectfully submitted,

Dated: 12/19/2024

/Grace J. Kim/  
Grace J. Kim, Reg. No. 71,977  
Fish & Richardson P.C.  
60 South Sixth Street, Suite 3200  
Minneapolis, MN 55402

*Attorneys for Petitioner*

**CERTIFICATE OF SERVICE**

The undersigned certifies that on December 19, 2024, a complete and entire copy of this Petitioner's Objections to Evidence was provided by email to the Patent Owner by serving the correspondence address of record as follows:

Philip Y. Braginsky  
Nels T. Lippert  
Rachel J. Lin  
Janet B. Linn  
Tarter, Krinsky & Drogin LLP  
1350 Broadway  
New York, NY 10018

David L. Cavanaugh  
Gregory H. Lantier  
Amy Mahan  
Seth Miller  
Wilmer Cutler Pickering  
Hale and Dorr LLP  
2100 Pennsylvania Avenue NW  
Washington, DC 20037

Email: [pbraginsky@tarterkrinsky.com](mailto:pbraginsky@tarterkrinsky.com)  
[manageddocket@docket.tarterkrinsky.com](mailto:manageddocket@docket.tarterkrinsky.com)

\_\_\_\_\_/Diana Bradley/  
Diana Bradley  
Fish & Richardson P.C.  
60 South Sixth Street, Suite 3200  
Minneapolis, MN 55402  
[bradley@fr.com](mailto:bradley@fr.com)