

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AIR PRODUCTS and CHEMICALS, INC.,
Petitioner,

v.

EVONIK OPERATIONS GMBH and EVONIK CORPORATION,
Patent Owner.

Case IPR2024-00611
U.S. Patent No. 10,471,380 B2

PATENT OWNER'S OBJECTIONS TO EVIDENCE

PURSUANT TO 37 C.F.R. § 42.64

Pursuant to 37 C.F.R. § 42.64, Patent Owner submits the following objections to evidence filed with the Petitioner's Reply on April 11, 2025. Patent Owner's objections apply equally to Petitioner's reliance on these exhibits in any subsequently filed documents. These objections are timely, having been filed within five business days of the Reply.

A. Exhibits 1042, 1043, 1044

Patent Owner objects to Exhibits 1042, 1043, and 1044 as improper and irrelevant under FRE 401, at least because these exhibits relate to a different legal proceeding, before the European Patent Office, where different legal standards and different conditions for patentability apply.

B. Exhibits 1046, 1047, 1048, and 1049

Patent Owner objects to Exhibits 1046, 1047, 1048, and 1049 as improper, untimely, not reasonable responsive, and irrelevant under FRE 401. These exhibits were not cited, discussed, or otherwise relied upon in Petitioner's Petition and thus are not relevant to any issue on which trial was instituted. Because these exhibits were introduced for the first time with the Reply, Patent Owner has had no fair opportunity to respond to any contention that may be based on them. Their late introduction is improper and prejudicial.

Patent Owner objects to Exhibits 1046, 1047, 1048, and 1049 as hearsay and lacking foundation. Patent Owner objects to Exhibits 1046, 1047, 1048, and 1049

as hearsay under FRE 801 to the extent that Patent Owner attempts to establish Exhibits 1046, 1047, 1048, and 1049 for the truth of matters asserted therein.

Patent Owner objects to Exhibits 1046, 1047, 1048, and 1049 under FRE 901 because they lack authentication. Exhibits 1046, 1047, 1048, and 1049 are not self-authenticating under FRE 902, and Petitioner has not produced evidence sufficient to support a finding that Exhibits 1046, 1047, 1048, and 1049 are what Petitioner says they are. Further, there is insufficient support in Exhibits 1046, 1047, 1048 and 1049 to establish that the documents were publicly available before the priority date of the patent.

Respectfully submitted,

Date: April 18, 2025

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Counsel for Patent Owner

CERTIFICATE OF SERVICE

I hereby certify that, on April 18, 2025, I caused a true and correct copy of the following document:

- Patent Owner's Objections to Evidence Pursuant to 37 C.F.R. § 42.64

to be served via e-mail, as consented to by Petitioner, on the following

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