UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNDER ARMOUR, INC.,
Petitioner,

v.

ATHALONZ, LLC,
Patent Owner.

Case IPR2024-00638
Patent No. 11,064,760

PATENT OWNER'S OBJECTIONS TO PETITIONER'S REPLY EVIDENCE

Patent Owner Athalonz LLC submits these objections to the following evidence that was submitted by Petitioner Under Armour, Inc. with the Petitioner's Reply to Patent Owner's Response (Paper 15, "Petitioner's Reply") in the above-captioned proceeding. In accordance with 37 C.F.R. § 42.64(b)(1), these objections are being timely filed and served within five business days of service of the evidence to which these objections are directed. Patent Owner reserves the right to file a motion to exclude this evidence under 37 C.F.R. § 42.64(c).

I. Exhibit 1022 (Supplemental Declaration of Grant Delgatty)

Patent Owner objects to Exhibit 1022 to the extent that it is not relevant to any issue in the present proceeding and/or unduly prejudicial. See FRE 401-403.

Patent Owner further objects to Exhibit 1022 because it includes expert opinions for which the factual bases have not been disclosed, for which Mr. Delgatty does not have personal knowledge (FRE 602), and because Mr. Delgatty's opinions constitute unreliable expert testimony under FRE 702 and/or 703.

Patent Owner objects to paragraphs 3-9 of Exhibit 1022 (§ II. "Conventional Shoes"). Patent Owner objects to the images and testimony in this section as constituting improper new reply evidence that could have been included in the Petition and presenting new arguments that are meant to fill gaps in the Petition. Patent Owner further objects to the images in this section as lacking foundation and lacking authentication under FRE 602 and FRE 901-903. For example, Petitioner

has not set forth sufficient evidence that the shoes depicted in the images were publicly available at the relevant time period. Petitioner has also not set forth evidence of how the cutouts in the images were created or what the images show.

Patent Owner objects to paragraphs 10-25 of Exhibit 1022. Patent Owner objects to this section as constituting improper new reply evidence that could have been included in the Petition and presenting new arguments that are meant to fill gaps in the Petition. For example, Mr. Delgatty is presenting new claim construction positions that conflict with the analysis in his original declaration (Ex. 1002). Patent Owner further objects to the portions of these paragraphs that rely on Exhibit 1030, which is inadmissible for the reasons set forth below.

Patent Owner objects to paragraphs 26-49 of Exhibit 1022. Patent Owner objects to these sections as constituting improper new reply evidence that could have been included in the Petition and presenting new arguments that are meant to fill gaps in the Petition. Patent Owner further objects to the portions of these paragraphs that rely on Exhibits 1032 and 1033, which are inadmissible for the reasons set forth below.

Patent Owner objects to paragraph 53 of Exhibit 1022. Patent Owner objects to this paragraph to the extent it relies on Exhibit 1034. Mr. Delgatty lacks personal knowledge of this spreadsheet and has no expertise to offer opinions regarding the information set forth therein under FRE 702 and/or 703.

Patent Owner objects to paragraphs 51, 52, and 54 of Exhibit 1022. Mr. Delgatty lacks personal knowledge of the information discussed in these paragraphs and has no expertise to offer opinions regarding the information set forth therein under FRE 702 and/or 703.

II. Exhibit 1027 ("Athalonz Golf Shoes")

Patent Owner objects to Exhibit 1027 to the extent that it is not relevant to any issue in the present proceeding and/or unduly prejudicial. See FRE 401-403.

Patent Owner also objects to Exhibit 1027 as lacking foundation under FRE 602. Patent Owner objects to this exhibit as containing hearsay to the extent that Petitioner attempts to rely on it to prove the truth of any matter described therein under FRE 801-803.

III. Exhibit 1028 ("From the Ground Up")

Patent Owner objects to Exhibit 1028 to the extent that it is not relevant to any issue in the present proceeding and/or unduly prejudicial. See FRE 401-403.

Patent Owner also objects to Exhibit 1027 as lacking foundation and lacking authentication under FRE 602 and FRE 901-903. Patent Owner objects to this exhibit as containing hearsay to the extent that Petitioner attempts to rely on it to prove the truth of any matter described therein under FRE 801-803.

IV. Exhibit 1029 ("Athalonz Technology Explained")

Patent Owner objects to Exhibit 1029 to the extent that it is not relevant to any issue in the present proceeding and/or unduly prejudicial. See FRE 401-403.

Patent Owner also objects to Exhibit 1027 as lacking foundation and lacking authentication under FRE 602 and FRE 901-903. Patent Owner objects to this exhibit as containing hearsay to the extent that Petitioner attempts to rely on it to prove the truth of any matter described therein under FRE 801-803.

V. Exhibit 1030 ("Athalonz Shoes – Leveraging the Laws of Physics")

Patent Owner objects to Exhibit 1029 to the extent that it is not relevant to any issue in the present proceeding and/or unduly prejudicial. See FRE 401-403.

Patent Owner also objects to Exhibit 1030 as containing hearsay to the extent that Petitioner attempts to rely on it to prove the truth of any matter described therein under FRE 801-803.

VI. Exhibit 1032 ("Cross Section")

Patent Owner objects to Exhibit 1032 to the extent that it is not relevant to any issue in the present proceeding and/or unduly prejudicial. See FRE 401-403.

Patent Owner also objects to Exhibit 1032 as lacking foundation and lacking authentication under FRE 602 and FRE 901-903. For example, Petitioner fails to offer sufficient evidence that Exhibit 1032 was publicly accessible in its presented form as of the alleged publication date. Petitioner also fails to offer evidence that the exhibit is what Petitioner claims it to be. Patent Owner objects to this exhibit as containing hearsay to the extent that Petitioner attempts to rely on it to prove the truth of any matter described therein under FRE 801-803.

VII. Exhibit 1033 ("Perspective")

Patent Owner objects to Exhibit 1033 to the extent that it is not relevant to any issue in the present proceeding and/or unduly prejudicial. See FRE 401-403.

Patent Owner also objects to Exhibit 1033 as lacking foundation and lacking authentication under FRE 602 and FRE 901-903. For example, Petitioner fails to offer sufficient evidence that Exhibit 1033 was publicly accessible in its presented form as of the alleged publication date. Petitioner also fails to offer evidence that the exhibit is what Petitioner claims it to be. Patent Owner objects to this exhibit as containing hearsay to the extent that Petitioner attempts to rely on it to prove the truth of any matter described therein under FRE 801-803.

VIII. Exhibit 1034 (Bernard Langer Statistics)

Patent Owner objects to Exhibit 1034 to the extent that it is not relevant to any issue in the present proceeding and/or unduly prejudicial. See FRE 401-403.

Patent Owner also objects to Exhibit 1034 as lacking foundation and lacking authentication under FRE 602 and FRE 901-903. For example, Petitioner fails to offer evidence that the exhibit is what Petitioner claims it to be. Patent Owner objects to this exhibit as containing hearsay to the extent that Petitioner attempts to rely on it to prove the truth of any matter described therein under FRE 801-803.

IX. Exhibit 1036 (Claim Charts Related to '786, '291, and '760 Patents)

Patent Owner objects to Exhibit 1036 to the extent that it is not relevant to any issue in the present proceeding and/or unduly prejudicial. See FRE 401-403.

Patent Owner also objects to Exhibit 1036 as containing hearsay to the extent that Petitioner attempts to rely on it to prove the truth of any matter described therein under FRE 801-803.

Dated: April 16, 2025

Respectfully submitted,

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Lead Counsel for Patent Owner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, the undersigned certifies that on April 16, 2025, a copy of the foregoing document was filed on P-TACTS today and served by email upon the following:

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