

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NINTENDO CO., LTD., and
NINTENDO OF AMERICA INC.,
Petitioners,

v.

AMERICAN GNC CORPORATION,
Patent Owner

IPR2024-00668
U.S. Patent No. 6,671,648

**PATENT OWNER'S OBJECTIONS TO
PETITIONER'S REPLY EVIDENCE**

Pursuant to the Federal Rules of Evidence and 37 C.F.R. § 42.64(b)(1), Patent Owner American GNC Corporation (“American GNC”) objects to the admissibility of the following evidence submitted by Petitioner Nintendo on April 15, 2025 with its Petitioner’s Reply. These objections are timely as made within five business days of service of the evidence. American GNC objects to the evidence as follows:

Each of the exhibits is improper under the rules of evidence, and submitted in contravention to the rules of practice and procedure here. American GNC hereby provides notice to Petitioner that American GNC will move to strike (if authorized) and/or to exclude these exhibits as improper evidence.

I. Exhibit 1037: Thor Nelson Juneau’s Dissertation, *Micromachined Dual Input Axis Rate Gyroscope*

American GNC objects to this exhibit and any reference to or reliance thereon.

American GNC objects to this exhibit as untimely because Petitioner should have and could have introduced it in the Petition. *See* 37 C.F.R. § 42.104(b); 37 C.F.R. § 42.23(b).

American GNC objects to this exhibit because Petitioner has failed to state its relevance or to identify specific portions of the evidence that support any challenge. *See* 37 C.F.R. § 42.104(b).

American GNC objects to this document under FRE 401, 402 and 403 because Petitioner has not demonstrated that this exhibit tends to make any fact of

consequence more or less probable. The exhibit is objected to as cumulative, irrelevant, confusing, beyond the proper scope of the Petition or Opposition, and of minimal probative value under FRE 401, 402 and 403—including because the exhibit is offered without explanation establishing any relevant purpose.

To the extent Petitioner relies on the contents of this exhibit for the truth of the matter asserted, American GNC also objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

American GNC also objects to this exhibit as irrelevant under FRE 401, 402, and 403 because Petitioner has not sufficiently demonstrated that this document was publicly accessible or existed as of any alleged date.

American GNC also objects to this exhibit as not properly authenticated under FRE 901 because insufficient evidence has been presented that the exhibit is authentic or that it is self-authenticating under FRE 902.

In addition, the exhibit is objected to as prejudicial far in excess of any probative value under FRE 403—including because it is offered with no opportunity for American GNC to provide rebuttal testimony concerning the exhibit. As such, American GNC has been denied a meaningful opportunity to respond pursuant to the requirements of Due Process and the Administrative Procedure Act.

In addition, the exhibit is objected to because Petitioner Nintendo has not

sought authorization to, has failed to, and cannot, meet the requirements of 37 C.F.R. § 42.123 for the admission of supplemental information more than one month after the date of institution. The exhibit is supplemental information that is improper and untimely under 37 C.F.R. § 42.123.

II. Exhibit 1038: Minor *et al.*, *Utilization of GPS/MEMS-IMU for Measurement of Dynamics for Range Testing of Missiles and Rockets*

American GNC objects to this exhibit and any reference to or reliance thereon.

American GNC objects to this exhibit as untimely because Petitioner should have and could have introduced it in the Petition. *See* 37 C.F.R. § 42.104(b); 37 C.F.R. § 42.23(b).

American GNC objects to this exhibit because Petitioner has failed to state its relevance or to identify specific portions of the evidence that support any challenge. *See* 37 C.F.R. § 42.104(b).

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To the extent Petitioner relies on the contents of this exhibit for the truth of

the matter asserted, American GNC also objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

American GNC also objects to this exhibit as irrelevant under FRE 401, 402, and 403 because Petitioner has not sufficiently demonstrated that this document was publicly accessible or existed as of any alleged date.

American GNC also objects to this exhibit as not properly authenticated under FRE 901 because insufficient evidence has been presented that the exhibit is authentic or that it is self-authenticating under FRE 902.

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In addition, the exhibit is objected to because Petitioner Nintendo has not sought authorization to, has failed to, and cannot, meet the requirements of 37 C.F.R. § 42.123 for the admission of supplemental information more than one month after the date of institution. The exhibit is supplemental information that is improper and untimely under 37 C.F.R. § 42.123.

III. Exhibit 1040 and 1057: Pub. No. WO 97/45699 to Clark *et al.*

American GNC objects to this exhibit and any reference to or reliance thereon.

American GNC objects to this exhibit as untimely because Petitioner should have and could have introduced it in the Petition. *See* 37 C.F.R. § 42.104(b); 37 C.F.R. § 42.23(b).

American GNC objects to this exhibit because Petitioner has failed to state its relevance or to identify specific portions of the evidence that support any challenge. *See* 37 C.F.R. § 42.104(b).

American GNC objects to this document under FRE 401, 402 and 403 because Petitioner has not demonstrated that this exhibit tends to make any fact of consequence more or less probable. The exhibit is objected to as cumulative, irrelevant, confusing, beyond the proper scope of the Petition or Opposition, and of minimal probative value under FRE 401, 402 and 403—including because the exhibit is offered without explanation establishing any relevant purpose.

To the extent Petitioner relies on the contents of this exhibit for the truth of the matter asserted, American GNC also objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

American GNC also objects to this exhibit as irrelevant under FRE 401, 402, and 403 because Petitioner has not sufficiently demonstrated that this document was publicly accessible or existed as of any alleged date.

American GNC also objects to this exhibit as not properly authenticated under FRE 901 because insufficient evidence has been presented that the exhibit is authentic or that it is self-authenticating under FRE 902.

In addition, the exhibit is objected to as prejudicial far in excess of any probative value under FRE 403—including because it is offered with no opportunity for American GNC to provide rebuttal testimony concerning the exhibit. As such, American GNC has been denied a meaningful opportunity to respond pursuant to the requirements of Due Process and the Administrative Procedure Act.

In addition, the exhibit is objected to because Petitioner Nintendo has not sought authorization to, has failed to, and cannot, meet the requirements of 37 C.F.R. § 42.123 for the admission of supplemental information more than one month after the date of institution. The exhibit is supplemental information that is improper and untimely under 37 C.F.R. § 42.123.

IV. Exhibit 1043 and 1047: Hulsing, *MEMS Inertial Rate and Acceleration Sensor*

American GNC objects to this exhibit and any reference to or reliance thereon.

American GNC objects to this exhibit as untimely because Petitioner should have and could have introduced it in the Petition. *See* 37 C.F.R. § 42.104(b); 37 C.F.R. § 42.23(b).

American GNC objects to this exhibit because Petitioner has failed to state its

relevance or to identify specific portions of the evidence that support any challenge.
See 37 C.F.R. § 42.104(b).

American GNC objects to this document under FRE 401, 402 and 403 because Petitioner has not demonstrated that this exhibit tends to make any fact of consequence more or less probable. The exhibit is objected to as cumulative, irrelevant, confusing, beyond the proper scope of the Petition or Opposition, and of minimal probative value under FRE 401, 402 and 403—including because the exhibit is offered without explanation establishing any relevant purpose.

To the extent Petitioner relies on the contents of this exhibit for the truth of the matter asserted, American GNC also objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

American GNC also objects to this exhibit as irrelevant under FRE 401, 402, and 403 because Petitioner has not sufficiently demonstrated that this document was publicly accessible or existed as of any alleged date.

American GNC also objects to this exhibit as not properly authenticated under FRE 901 because insufficient evidence has been presented that the exhibit is authentic or that it is self-authenticating under FRE 902.

In addition, the exhibit is objected to as prejudicial far in excess of any probative value under FRE 403—including because it is offered with no opportunity

for American GNC to provide rebuttal testimony concerning the exhibit. As such, American GNC has been denied a meaningful opportunity to respond pursuant to the requirements of Due Process and the Administrative Procedure Act.

In addition, the exhibit is objected to because Petitioner Nintendo has not sought authorization to, has failed to, and cannot, meet the requirements of 37 C.F.R. § 42.123 for the admission of supplemental information more than one month after the date of institution. The exhibit is supplemental information that is improper and untimely under 37 C.F.R. § 42.123.

V. Exhibit 1044: Temes *et al.*, *State-of-the-Art and Future Prospects for Analogue Signal Processing-A Tutorial*

American GNC objects to this exhibit and any reference to or reliance thereon.

American GNC objects to this exhibit as untimely because Petitioner should have and could have introduced it in the Petition. *See* 37 C.F.R. § 42.104(b); 37 C.F.R. § 42.23(b).

American GNC objects to this exhibit because Petitioner has failed to state its relevance or to identify specific portions of the evidence that support any challenge. *See* 37 C.F.R. § 42.104(b).

American GNC objects to this document under FRE 401, 402 and 403 because Petitioner has not demonstrated that this exhibit tends to make any fact of consequence more or less probable. The exhibit is objected to as cumulative,

irrelevant, confusing, beyond the proper scope of the Petition or Opposition, and of minimal probative value under FRE 401, 402 and 403—including because the exhibit is offered without explanatory testimony to establish any relevant purpose.

To the extent Petitioner relies on the contents of this exhibit for the truth of the matter asserted, American GNC also objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

American GNC also objects to this exhibit as irrelevant under FRE 401, 402, and 403 because Petitioner has not sufficiently demonstrated that this document was publicly accessible or existed as of any alleged date.

American GNC also objects to this exhibit as not properly authenticated under FRE 901 because insufficient evidence has been presented that the exhibit is authentic or that it is self-authenticating under FRE 902.

American GNC objects to this exhibit and any argument submitted on or about this exhibit, including because such argument would not meet the personal knowledge foundation requirements of FRE 602, and would be improper expert testimony under FRE 702 and 703. Petitioner's expert has not testified about, or with personal knowledge of, the exhibit. Petitioner's counsel is unqualified as an expert to provide technical opinions of, or about the knowledge of, a person skilled in the art. Any argument from counsel about the exhibit constitutes opinions that

are inadmissible under FRE 602 and FRE 702—including because they lack foundation, and are conclusory, do not disclose underlying facts or data in support, and are unreliable.

In addition, the exhibit is objected to as prejudicial far in excess of any probative value under FRE 403—including because it is offered with no opportunity for American GNC to provide rebuttal testimony concerning the exhibit. As such, American GNC has been denied a meaningful opportunity to respond pursuant to the requirements of Due Process and the Administrative Procedure Act.

In addition, the exhibit is objected to because Petitioner Nintendo has not sought authorization to, has failed to, and cannot, meet the requirements of 37 C.F.R. § 42.123 for the admission of supplemental information more than one month after the date of institution. The exhibit is supplemental information that is improper and untimely under 37 C.F.R. § 42.123.

VI. Exhibit 1045: Reply Declaration of Darrin Young

American GNC objects to this exhibit and any reference to or reliance thereon.

American GNC objects to this exhibit as untimely because Petitioner should have and could have introduced it in the Petition. *See* 37 C.F.R. § 42.104(b); 37 C.F.R. § 42.23(b).

American GNC objects to this exhibit because and to the extent that it presents improper testimony as to new matters on Reply.

American GNC objects to this exhibit because Petitioner has failed to state its relevance or to identify specific portions of the evidence that support any challenge. *See* 37 C.F.R. § 42.104(b).

American GNC objects to this document under FRE 401, 402 and 403 because Petitioner has not demonstrated that this exhibit tends to make any fact of consequence more or less probable. The exhibit is objected to as cumulative, irrelevant, confusing, beyond the proper scope of the Petition or Opposition, and of minimal probative value under FRE 401, 402 and 403—including because the exhibit is offered without explanation establishing any relevant purpose.

In addition, the exhibit is objected to as prejudicial far in excess of any probative value under FRE 403—including because it is offered with no opportunity for American GNC to provide rebuttal testimony concerning the exhibit. As such, American GNC has been denied a meaningful opportunity to respond pursuant to the requirements of Due Process and the Administrative Procedure Act.

In addition, the exhibit is objected to because Petitioner Nintendo has not sought authorization to, has failed to, and cannot, meet the requirements of 37 C.F.R. § 42.123 for the admission of supplemental information more than one month after the date of institution. The exhibit is supplemental information that is improper and untimely under 37 C.F.R. § 42.123.

VII. Exhibit 1053: Crossbow DMU-6X and DMU-VGX Silicon IMU and

Vertical Gyro datasheet

American GNC objects to this exhibit and any reference to or reliance thereon.

American GNC objects to this exhibit as untimely because Petitioner should have and could have introduced it in the Petition. *See* 37 C.F.R. § 42.104(b); 37 C.F.R. § 42.23(b).

American GNC objects to this exhibit because Petitioner has failed to state its relevance or to identify specific portions of the evidence that support any challenge. *See* 37 C.F.R. § 42.104(b).

American GNC objects to this document under FRE 401, 402 and 403 because Petitioner has not demonstrated that this exhibit tends to make any fact of consequence more or less probable. The exhibit is objected to as cumulative, irrelevant, confusing, beyond the proper scope of the Petition or Opposition, and of minimal probative value under FRE 401, 402 and 403—including because the exhibit is offered without explanatory testimony to establish any relevant purpose.

To the extent Petitioner relies on the contents of this exhibit for the truth of the matter asserted, American GNC also objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

American GNC also objects to this exhibit as irrelevant under FRE 401, 402, and 403 because Petitioner has not sufficiently demonstrated that this document was

publicly accessible or existed as of any alleged date.

American GNC also objects to this exhibit as not properly authenticated under FRE 901 because insufficient evidence has been presented that the exhibit is authentic or that it is self-authenticating under FRE 902.

In addition, the exhibit is objected to as prejudicial far in excess of any probative value under FRE 403—including because it is offered with no opportunity for American GNC to provide rebuttal testimony concerning the exhibit. As such, American GNC has been denied a meaningful opportunity to respond pursuant to the requirements of Due Process and the Administrative Procedure Act.

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VIII. Exhibit 1063, 1064, and 1065: Analog Devices datasheets

American GNC objects to these exhibits and any reference to or reliance thereon.

American GNC objects to these exhibits as untimely because Petitioner should have and could have introduced them in the Petition. *See* 37 C.F.R. § 42.104(b); 37 C.F.R. § 42.23(b).

American GNC objects to these exhibits because Petitioner has failed to state their relevance or to identify specific portions of the evidence that support any challenge. *See* 37 C.F.R. § 42.104(b).

American GNC objects to these documents under FRE 401, 402 and 403 because Petitioner has not demonstrated that these exhibits tend to make any fact of consequence more or less probable. The exhibits are objected to as cumulative, irrelevant, confusing, beyond the proper scope of the Petition or Opposition, and of minimal probative value under FRE 401, 402 and 403—including because the exhibits are offered without any explanation to establish any relevant purpose.

To the extent Petitioner relies on the contents of these exhibits for the truth of the matter asserted, American GNC also objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

American GNC also objects to this exhibit as irrelevant under FRE 401, 402, and 403 because Petitioner has not sufficiently demonstrated that this document was publicly accessible or existed as of any alleged date.

American GNC also objects to this exhibit as not properly authenticated under FRE 901 because insufficient evidence has been presented that the exhibit is authentic or that it is self-authenticating under FRE 902.

In addition, the exhibits are objected to as prejudicial far in excess of any

probative value under FRE 403—including because they are offered with no opportunity for American GNC to provide rebuttal testimony concerning the exhibits. As such, American GNC has been denied a meaningful opportunity to respond pursuant to the requirements of Due Process and the Administrative Procedure Act.

In addition, the exhibits are objected to because Petitioner Nintendo has not sought authorization to, has failed to, and cannot, meet the requirements of 37 C.F.R. § 42.123 for the admission of supplemental information more than one month after the date of institution. The exhibits are supplemental information that is improper and untimely under 37 C.F.R. § 42.123.

Dated: April 22, 2025

/s/ Corey Johanningmeier

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CERTIFICATE OF SERVICE

Petitioner has consented to e-mail service in this proceeding. Pursuant to 37 C.F.R. §42.6, the undersigned certifies that on April 22, 2025, a copy of the foregoing document was served by email upon the following counsel at the below email addresses:

Matthew J. Brigham (Reg. No. 44,047)
Andrew C. Mace (Reg. No. 63,342)
Patrick W. Lauppe (Admission *pro hac vice* to be requested)
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Dated: April 22, 2025

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