

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

KOHLER CO.,
Petitioner,
v.
DELTA FAUCET CO.,
Patent Owner.

Case No. IPR2024-00700
U.S. Patent No. 10,393,363

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

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioners hereby object to the exhibits cited and relied upon in Patent Owner's January 17, 2025 response on the following grounds. For each objected to exhibit, the pertinent Federal Rule of Evidence ("FRE") or other rule that gives rise to the objection is provided, along with a brief summary of the basis of the objection.

1. Ex. 2012 – Web site entitled “Delta, Allentown Single Handle Pull-Down Kitchen Faucet”: FRE 802. The exhibit includes out of court, hearsay statements that are being improperly cited to establish the truth of the matter asserted (including the features possessed by and operation of the depicted product). Patent Owner has not established that any hearsay exception applies. **FRE 901.** Patent Owner has failed to properly authenticate the information in this exhibit. Among other things, it is unclear from the record who authored the document, when it was authored, whether and where the product it relates to was sold, and what connection the depicted product has to any product discussed elsewhere in the record.

2. Ex. 2013 – Web site entitled “Delta, H2Okinetic Pendant Raincan Shower Head”: FRE 802. The exhibit includes out of court, hearsay statements that are being improperly cited to establish the truth of the matter asserted (including the features possessed by and operation of the depicted product). Patent Owner has not established that any hearsay exception applies. **FRE 901.** Patent Owner has failed to properly authenticate the information in this exhibit. Among other things,

it is unclear from the record who authored the document, when it was authored, whether and where the product it relates to was sold, and what connect the depicted product has to any product discussed elsewhere in the record.

3. Ex. 2015 – Web site excerpt entitled “Home Depot, Allentown Single Handle Pull-Down Kitchen Faucet”): FRE 901. Patent Owner has failed to properly authenticate the information in this exhibit. Among other things, it is unclear from the record who any of the reviewers listed on this website are or whether the provided reviews are reflective of actual product purchase or use. **FRE 401.** Given Patent Owner’s failure to properly authenticate this exhibit, it is not relevant to any issue in this proceeding.

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: January 27, 2025

/K. Patrick Herman/

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CERTIFICATE OF SERVICE

The undersigned hereby confirms that the foregoing paper was caused to be served on January 27, 2025 via email upon the following counsel of record for Patent

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