

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BTL INDUSTRIES, INC.,
Petitioner

v.

INMODE LTD.,
Patent Owner

Case IPR2024-00703
U.S. Patent No. 8,961,511

**PETITIONER’S OBJECTIONS TO PATENT OWNER’S EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

Mail Stop “PATENT BOARD”
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner BTL Industries, Inc.

(“Petitioner”) objects under the Federal Rules of Evidence (“F.R.E.”) to the admissibility of Exhibits 2001, 2003, 2004, 2006-2011, and 2013-2018, which Patent Owner filed with its Patent Owner Response.

Petitioner timely objects under 37 C.F.R. § 42.64(b)(1) within five business days of service.

I. EXHIBIT 2001

Petitioner objects to Exhibit 2001 to the extent Dr. Poulos relies on Exhibits 2003, 2004, 2006-2011, and 2013-2018 for the reasons provided below (Section II), and/or because Exhibits 2003, 2004, 2006-2011, and 2013-2018 are not qualified to be the basis for an expert opinion under F.R.E. 703. Therefore, these portions of Exhibit 2001 are inadmissible under F.R.E. 702 and F.R.E. 703.

Petitioner also objects to Exhibit 2001, including at least ¶¶ 36-46, 50-52, 54-73, and 76-181, as improper expert testimony under F.R.E. 702 and 703 and 37 C.F.R. § 42.65. There has not been an adequate showing that Dr. Poulos’s testimony is based on sufficient facts or data, is the product of reliable principles or methods, or will help the Board understand the evidence or determine a fact in issue.

Petitioner further objects to ¶¶ 1–27, 31-34, 53, 74-75, 99, 110-111, 124-125, 131-132, 134, 149, 152-153, 158, 177, and 179 of Exhibit 2001 as being

irrelevant under F.R.E. 401, 402, and 403 because they have not been relied upon in support of any argument made in the Petition.

II. EXHIBITS 2003, 2004, 2006-2011, AND 2013-2018

Petitioner objects to Exhibits 2006, 2009, 2010, and 2013-2016 under F.R.E. 401, 402, and 403 for including information that is irrelevant or whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.

Petitioner also objects to Exhibits 2003, 2004, 2007-2011, and 2013-2018 as impermissible hearsay under F.R.E. 801 and 802 to the extent these exhibits are offered for the truth of the matters asserted. Patent Owner has not identified any applicable exception or exclusion to the rule against hearsay that applies to these exhibits.

Petitioner further objects to Exhibits 2003, 2004, 2007-2011, and 2013-2018 under F.R.E. 901 because Patent Owner has not presented evidence sufficient to support a finding that the documents in question are what Petitioner claims them to be. There is no evidence that the documents are self-authenticating under F.R.E. 902. Exhibit 2004 also does not appear to be the document listed in Patent Owner's exhibit list.

Petitioner further objects to each of Exhibits 2003, 2004, and 2007-2009 under F.R.E. 106 as being incomplete and Patent Owner has not produced or otherwise made available the full content of the documents to Petitioner, and under F.R.E. 106 as omitting the remainder of writings that ought to be considered at the same time as Exhibits 2003, 2004, and 2007-2009.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX PLLC

/Richard M. Bemben/

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Date: January 29, 2025

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CERTIFICATION OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **PETITIONER'S OBJECTIONS TO PATENT OWNER'S EVIDENCE PURSUANT TO 37 C.F.R. § 42.64(b)(1)** was served electronically via e-mail on January 29, 2025, in its entirety on the following:

Justin J. Oliver (Lead Counsel)
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Respectfully Submitted,

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Date: January 29, 2025

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