

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SALVACION USA, INC.
Petitioner

v.

TRUTEK CORP.
Patent Owner

U.S. Patent No. 8,163,802
Issued: April 24, 2012

Title: ELECTROSTATICALLY CHARGED MULTI-ACTING NASAL
APPLICATION, PRODUCT, AND METHOD

Inter Partes Review No. IPR-2024-00711

**PATENT OWNER'S RESPONSE IN OPPOSITION TO
PETITIONER'S OBJECTIONS TO
PATENT OWNER'S DEMONSTRATIVES**

Pursuant to the Order Setting Oral Argument (Paper 21), the parties were required to exchange demonstratives at least seven business days prior to the date set for argument (September 8, 2025). The date set for the exchange would have been August 27, 2025. However, by mutual agreement and by approval from the Board, the exchange of demonstratives actually occurred on August 28, 2025.

In addition, the parties were required to upload their demonstratives at least two business days prior to the date set for argument. Patent Owner uploaded its demonstrative slides on September 3, 2025, and Petitioner uploaded its slides on September 4, 2025. Accompanying Petitioner's submission were objections to Patent Owner's Slides 6, 9, and 14. The following is Patent Owner's response to Petitioner's objections.

Slide 6:

Slide 6 is submitted to explain the mechanism of action of the '802 Patent's claims. Independent claims 1 and 2 recite that harmful particles are attracted to a formulation that is applied to the skin or tissue of the nasal passages, and the harmful particles are held in place by the formulation.

Slide 6 includes an illustration of the action of the formulations of the '802 Patent, wherein a positive electrostatic field surrounds the nasal area where the formulation is applied. It also demonstrates that negatively charged particles are attracted to the positively charged field. It is common knowledge that negatively charged particles would be attracted to a positively charged surface. It is also common knowledge that most harmful particles floating in the air are negatively charged.

The '802 Patent specification says that the harmful particles include airborne viruses, bacteria, and environmental particles that are also infectious. It is well known that viruses, bacteria, pollutants, dust, and pollen each have a negative electrostatic charge. A person having ordinary skill in the art (POSITA) would have knowledge of this fact.

Petitioner objects to Slide 6 because it "includes a visual that is not part of the record." However, this illustration appears on Page 21 of Patent Owner's response to the petition (Paper 9). Thus, the "visual" is a part of the record. The illustration shows circles depicting pollutants, dust, and pollen.

Moreover, this slide is not being presented as evidence, but rather to illustrate the function of the '802 Patent during oral argument.

Slide 9:

In Dr. Park's declaration (Ex. 1002, on Page 21, Paragraph 71), in his Claim Construction section, Petitioner's expert wrote:

"The object of the invention of the '802 patent describes that a composition can be 'readily applied to the exterior region around the nostril and/or slightly inside the edge of the nostril.' (Ex. 1001 2:62-65 and see 3:6-7 and 3:15-16.) Logically, the formulations applied in a thin film must be on the exterior region around the nostril (i.e., skin) and/or slightly inside the edge of the nostril, which is the tissue of nasal passages, in order to prevent nasal inhalation."

This passage was echoed in the petition on page 15. In the Board's decision to institute a trial, Judge Franklin also quoted this same passage. Patent Owner agrees that this is how Trutek's NasalGuard® gel products are applied.

Slide 9 illustrates how NasalGuard® gel is applied. It confirms Petitioner's claim construction. The text of Steps 1, 2, and 3 are shown at the bottom of each photograph, respectively. However, the font is very small. Thus, the text of Steps, 1, 2, and 3 were rewritten on the slide for better visibility.

Petitioner objects to Slide 9 asserting that it is not part of the record and is irrelevant. However, the slide demonstrates the claim construction to which all parties agree. Thus, the slide is relevant. The NasalGuard® gel is applied to the skin of the nasal passages externally. Moreover, this slide is not intended to be used as evidence, but for demonstration purposes only. It does not introduce any new evidence.

Slide 14:

The '802 Patent's specification states:

Patents such as U.S. Pat. No. 6,844,005 describe electrostatically charged compositions that may be applied externally in the vicinity of the nostril and attract oppositely charged materials that would otherwise be inhaled. However, those compositions simply create an electrostatic field that helps to filter out oppositely charged materials. While this action may offer suitable protection against particles that are inhaled passively, they suffer from the fact that they cannot completely deal with particulates that have their own internal means of overcoming the electrostatic forces, such as microorganisms that are motile within the air stream. Furthermore, actions by the person having those electrostatic compositions in the vicinity of the nostrils can sufficiently displace the offending particles or organisms, especially in such instances as blowing or wiping the nose, so that particles that were held captive by the former compositions could become dislodged, again set free, and be inhaled.
('802 Patent at 2:43-58.)

Slide 14 illustrates this phenomenon, and it applies to Patent No. 6,844,005 only (Ex. 1007, WAHI '005). The '802 Patent and WAHI '005 are part of the record. Slide 14 is used to provide a demonstrative explanation only. Further, Trutek would not have been able sell the product protected by the '802 Patent prior to 2012. The sales following 1995 refer to WAHI '005 only. During the oral argument, Patent Owner will stress this point, which also should be obvious from the above excerpt from the '802 Patent specification. Based on this disclosure in the '802 Patent specification, this slide should not be prejudicial.

For the foregoing reasons, Patent Owner respectfully requests that the Board overrule Petitioner's objections to Patent Owner's slides.

Date: September 5, 2025

Respectfully submitted,

/s/ Stanley H. Kremen
Stanley H. Kremen
Lead Counsel for Patent Owner
Reg. No. 51900
(732) 593-7294
uspto@patentsgroup.com

CERTIFICATION OF SERVICE

The undersigned hereby certifies that the above-captioned "Patent Owner's Response In Opposition To Petitioner's Objections To Patent Owner's Demonstratives," regarding IPR2024-00711 was served on September 5, 2025, upon the following via email:

VORYS, SATER, SEYMOUR AND PEASE LLP

William H. Oldach III	< wholdach@vorys.com >
Mih Sinh Koh	< mskoh@vorys.com >
Maryellen Feehery Hank	< mfhank@vorys.com >
Bradley A. Hough	< bahough@vorys.com >

As well as a courtesy copy to the patent owner's litigation counsel, by email:

Jonathan Barnes	< jbarnes@bradley.com >
-----------------	--

By /Stanley H. Kremen/
Stanley H. Kremen
Registration No. 51900