

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ENCUBE ETHICALS PVT. LTD.,
Petitioner

v.

DERMAVANT SCIENCES GMBH,
Patent Owner

Case IPR2024-00834
U.S. Patent No. 11,590,088 B2

**PATENT OWNER'S OPPOSITION TO PETITIONER'S MOTION TO
SUBMIT SUPPLEMENTAL INFORMATION**

Mail Stop "PATENT BOARD"

Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Patent Owner opposes Petitioner's Motion because (i) the webpages are not supplemental *information*, but are instead supplemental *evidence*, which Petitioner has already served and could file later; and (ii) Petitioner has not demonstrated relevance or how the webpages support its arguments on the merits.

I. THE WEBPAGES ARE SUPPLEMENTAL EVIDENCE AND WERE ALREADY SERVED

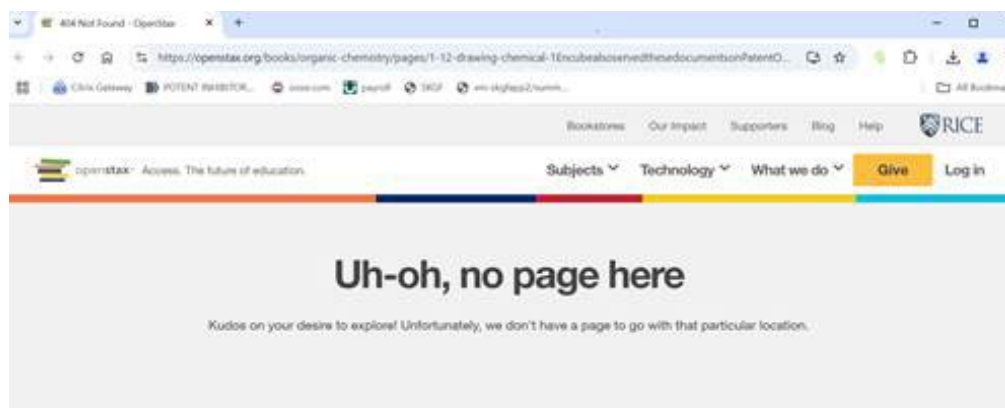
Supplemental evidence is offered to support admissibility of previously filed evidence. *Handi Quilter, Inc. v. Bernina Int'l AG*, IPR2013-00364, Paper 30 at 2-3 (PTAB Jun. 12, 2014). Supplemental evidence is served, not filed, at the time of the objection, and is filed only in support of an opposition to a motion to exclude. *See* 37 C.F.R. § 42.64(b)(2). Petitioner already served what it purports are the same four webpages in its Motion as supplemental evidence in response to Patent Owner's Objections to Mr. Sudhakar's Declaration (EX1032) ¶¶ 62, 72, and 73 (among others) under FRE 702 as not based on sufficient facts or data, unsupported assertions, and/or including citations to unreliable sources, such as the webpages listed in the Motion. *See* Paper 13, at 15. Thus, if anything, the web pages should be filed later in the proceeding in support of an opposition to a motion to exclude evidence. Petitioner has already availed itself of the correct procedure to supply the webpages as supplemental *evidence*. Petitioner's seeking to file the webpages now under the guise of supplemental *information* attempts to circumvent the rules and the motion should be denied. *ServiceNow, Inc. v. BMC*

Software, Inc., IPR2015-01176, Paper 15 (PTAB Dec. 29, 2015).

II. EVEN IF CONSIDERED SUPPLEMENTAL INFORMATION, PETITIONER HAS NOT DEMONSTRATED RELEVANCE

Supplemental information is offered to support arguments on the merits.

Handi Quilter, IPR2013-00364, Paper 30 at 2-3. To the extent the Board considers the webpages to be supplemental information and not supplemental evidence, Petitioner has not demonstrated how the webpages support its merits arguments and are thus relevant to any claim in the proceeding. Clicking on the first link in the Motion today, January 3, 2025, leads to a webpage that doesn't exist:



Even assuming that the webpage Petitioner served on December 10, 2024, contains the content missing from the webpage link in the Motion, Petitioner has not demonstrated that that content supports its merits arguments.

The second and third webpages allegedly relate to the term “Benvitimod” in EX1016-EX1018, yet “Benvitimod” appears nowhere in the Petition. Moreover, the third webpage is from Wikipedia, whose entries can be modified by anyone at any time, without any check of veracity. Petitioner also asserts that these webpages

relate to “the Chen references” in an attempt to bolster the petition’s deficiencies vis-à-vis Chen. Paper 6, 43-46. But supplemental information cannot be used to bolster deficiencies. *Pacific Mkt. Int’l, LLC v. Ignite USA, LLC*, IPR2014-00561, Paper 23 (PTAB Dec. 2, 2014).

The fourth webpage is a blog entry posted in 2018 by Jessica Clifton who, according to the webpage, “has an extensive background in marketing, and has worked in the chemical manufacturing industry since 2019.” In other words, Petitioner attempts to support its merits arguments by relying on the opinion of someone with a marketing background who posted the blog a year prior to entering the chemical manufacturing field, without showing how such opinion would be relevant to the knowledge of the person of ordinary skill.

The Motion fails to show how any one of the webpages is relevant to any claim in the proceeding. Nor has it shown that the webpages linked in the Motion contain the same content now as when Mr. Sudhakar formed his opinions.

For all the above reasons, the Board can and should deny the Motion.

Respectfully submitted,
STERNE, KESSLER, GOLDSTEIN & FOX PLLC
/Deborah A. Sterling/
Deborah A. Sterling, Ph.D. (Reg. No. 62,732)
Lead Attorney for Patent Owner

Date: January 3, 2025
1101 K Street, NW, 10th Floor
Washington, DC 20005
(202) 371-2600

CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

I certify that the above-captioned **PATENT OWNER'S OPPOSITION TO
PETITIONER'S MOTION TO SUBMIT SUPPLEMENTAL
INFORMATION** was served in its entirety on January 3, 2025, upon the
following parties via electronic mail:

Gary J. Speier (Lead Counsel)
Nathan D. Louwagie (Back-up Counsel)
Peter M. Kohlhepp (Back-up Counsel)
CARLSON CASPERS VANDENBURGH & LINDQUIST
gspeier@carlsoncaspers.com
nlouwagie@carlsoncaspers.com
pkohlhepp@carlsoncaspers.com

Respectfully submitted,
STERNE, KESSLER, GOLDSTEIN & FOX PLLC
/Deborah A. Sterling/
Deborah A. Sterling, Ph.D.
Registration No. 62,732
Lead Attorney for Patent Owner

Date: January 3, 2025

1101 K Street, NW, 10th Floor
Washington, DC 20005
(202) 371-2600