UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SMAXTEC INC. and
SMAXTEC ANIMAL CARE GMBH,
Petitioner

v.

ST REPRODUCTIVE TECHNOLOGIES, LLC,
Patent Owner.

Case: IPR2024-00885
Patent No. 8,823,515 B2

PETITIONER'S OBJECTIONS TO EVIDENCE FILED WITH THE PATENT OWNER RESPONSE

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner submits the following objections to evidence submitted with the Patent Owner Response (Paper No. 20) in the instant proceeding. These objections have been timely filed and served within five business days of filing of the Patent Owner Response.

I. Exhibits 2006-2008 and 2013-2021

Petitioner objects to each of Exhibits 2006-2008 and 2013-2021 for the following reasons.

Each of these exhibits is inadmissible because Patent Owner has failed to authenticate any of these exhibits in accordance with Fed. R. Evid. 901(a). Patent Owner has not explained what each document is, has not provided evidence regarding the origin or preservation of each document, has not established that each is a true and correct copy, and has not otherwise authenticated each document.

To the extent Patent Owner attempts during this proceeding to rely on any statement within these exhibits as evidence to prove the truth of the matter asserted, such statement is hearsay under Fed. R. Evid. 801 and therefore inadmissible under Fed. R. Evid. 802.

Due to at least the above deficiencies, Patent Owner has failed to establish that these exhibits are relevant under Fed. R. Evid. 401, and therefore the exhibits are inadmissible under Fed. R. Evid. 402.

II. Exhibit 2009 — Declaration of Timothy J. Bowser, Ph.D. In Support of Patent Owner Response

Petitioner objects to Exhibit 2009 ("Bowser Declaration") as inadmissible under at least Fed. R. Evid. 702 because Dr. Bowser's opinions are conclusory; do not sufficiently disclose underlying facts or data in support; are unreliable; and lack the requisite scientific, technical, or other specialized knowledge sufficient to help the trier of fact understand the evidence or determine a fact in issue. Dr. Bowser lacks sufficient skill in the art, making his testimony unreliable and unhelpful to understanding the evidence and determining facts in issue. Additionally, under Fed. R. Evid. 401(test for relevance), Fed. R. Evid. 402 (relevance), and Fed. R. Evid. 403 (probative value outweighed by prejudice, confusing of issues, wasting time), his opinions are irrelevant, confusing, and of minimal probative value.

In particular, paragraphs 78-116 of the Bowser Declaration relating to opinions on the public accessibility of Trevarthen (Ex.1005) do not sufficiently disclose underlying facts or data in support; are unreliable; and lack the requisite scientific, technical, or other specialized knowledge sufficient to help the trier of fact understand the evidence or determine a fact in issue. Dr. Bowser relies on unauthenticated and unreliable exhibits (*supra* § I) and unreliable methods (*see*, *e.g.*, paragraphs 90-105) as alleged support for how date-limited Google search

method accurately reflects the results of a Google search performed before the priority date of the patent.

III. Exhibit 2011 — Declaration of Meredith Knoff

Petitioner objects to Exhibit 2011 ("Knoff Declaration") as inadmissible under at least Fed. R. Evid. 702 because its opinions are conclusory; do not sufficiently disclose underlying facts or data in support; are unreliable; and lack the requisite scientific, technical, or other specialized knowledge sufficient to help the trier of fact understand the evidence or determine a fact in issue. Additionally, under Fed. R. Evid. 401(test for relevance), Fed. R. Evid. 402 (relevance), and Fed. R. Evid. 403 (probative value outweighed by prejudice, confusing of issues, wasting time), his opinions are irrelevant, confusing, and of minimal probative value.

In particular, paragraph 33 of the Knoff Declaration relating to opinions on the public accessibility of Trevarthen (Ex.1005) are objected to as relying on the objected-to unreliable opinions of Dr. Bowser. *Supra* § II. The Knoff Declaration relies on unauthenticated and unreliable exhibits (*supra* § I) and unreliable methods (see, *e.g.*, paragraphs 34-39) as alleged support for how date-limited Google search method accurately reflects the results of a Google search performed before the priority date of the patent.

Petitioner likewise objects to any portions of the Patent Owner Response that relies on the foregoing objected-to exhibits, Bowser Declaration, and Knoff Declaration.

Respectfully submitted,

Dated: February 24, 2025

/ Blaine M. Hackman /

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CERTIFICATE OF SERVICE

I certify that today in:

smaXtec Inc. and smaXtec Animal Care GMBH v. ST Reproductive Technologies, LLC, IPR2024-00885 (U.S. Patent 8,823,515)

I caused to be served a copy of:

PETITIONER'S OBJECTIONS TO EVIDENCE
FILED WITH THE PATENT OWNER RESPONSE

upon:

ST Reproductive Technologies, LLC, c/o

Daniel Moffett, dmoffett@akingump.com
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via:

Electronic service to the email addresses above.

Dated: February 24, 2025

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