

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ASCEND ELEMENTS, INC.

Petitioner,

v.

DUESENFELD GMBH

Patent Owner.

Inter Partes Review No. IPR2024-00948

U.S. Patent No. 11,050,097

PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner, Duesenfeld GmbH (“Duesenfeld”), hereby submits the following objections to certain evidence filed by Petitioner Ascend Elements, Inc. (“Ascend”) on May 9, 2025 in conjunction with its Reply to Patent Owner’s Response (Paper No. 30) (“Reply”).

I. Exhibit 1023 : Declaration of Walter van Schalkwijk.

Patent Owner has not yet cross-examined Dr. van Schalkwijk but intends to do so. Patent Owner reserves the right to move to exclude Exhibit 1023 or portions of the declaration/testimony based on FRE 401/402 (relevance), FRE 403 (probative value outweighed by prejudice, confusing, waste of time), FRE 602 (lack of personal knowledge), and/or FRE 702/703 (insufficient support for expert testimony). Further, Patent Owner objects to Exhibit 1023 under FRE 802 (hearsay), to the extent that Patent Owner does not have the opportunity to cross-examine Dr. van Schalkwijk.

II. Exhibit 1024: Deposition Transcript of Vani Dantam dated March 24, 2025.

Patent Owner objects to Exhibit 1024 – the full deposition transcript of Patent Owner’s expert, Vani Dantam – based on FRE 401/402 (relevance) and FRE 403 (probative value outweighed by prejudice, confusing, waste of time). Patent Owner further objects to the use of certain portions of this transcript, as the line of questioning pursued by Petitioner is beyond the scope of permissible cross-examination under 37 CFR § 42.51(b)(1)(ii). Patent Owner further objects to this

exhibit based on FRE 801 to 803 as containing impermissible hearsay to the extent this exhibit is offered for the truth of the matter asserted without establishing that any valid hearsay exception applies. Patent Owner incorporates herein each and every objection made during the Deposition of Vani Dantam as illustrated in the transcript itself.

III. Exhibit 1025: Deposition Transcript of Lydia Grote dated April 18, 2025.

Patent owner objects to Exhibit 1025 – the full deposition transcript of Lydia Grote – based on FRE 401/402 (relevance) and FRE 403 (probative value outweighed by prejudice, confusing, waste of time). Patent Owner further objects to the use of certain portions of this transcript, as the line of questioning pursued by Petitioner is beyond the scope of permissible cross-examination under 37 CFR § 42.51(b)(1)(ii). Patent Owner further objects to this exhibit based on FRE 801 to 803 as containing impermissible hearsay to the extent this exhibit is offered for the truth of the matter asserted without establishing that any valid hearsay exception applies. Patent Owner incorporates herein each and every objection made during the Deposition of Lydia Grote as illustrated in the transcript itself.

IV. Exhibit 1026: Declaration of Lydia Grote in *Duesenfeld GMBH v. Ascend Elements, Inc.*, Civ. A. No. 1:23-cv-01194- JFM.

Patent Owner objects to Exhibit 1026 – which is a declaration filed in District Court litigation involving the '097 Patent, not this proceeding – based on

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FRE 401/402 (relevance) and FRE 403 (probative value outweighed by prejudice, confusing, waste of time), including because Petitioner does not cite the exhibit in its Reply.

V. Exhibits 1027 & 1028: Documents Produced by Patent Owner in Discovery.

Patent Owner objects to Exhibits 1027 (DUESENFELD_IPR00000131-153) and 1028 (DUESENFELD_IPR00000154) based on FRE 401/402 (relevance) and FRE 403 (probative value outweighed by prejudice, confusing, waste of time), including because Petitioner does not cite the exhibit in its Reply.

Patent Owner further objects to these exhibits based on FRE 801 to 803 as containing impermissible hearsay to the extent these exhibits are offered for the truth of the matter asserted in them without establishing that any valid hearsay exception applies.

Patent Owner further objects to Exhibit 1028 based on FRE 901 because Petitioner has failed to authenticate the documents by presenting sufficient evidence to support a finding that the documents are what Petitioner claims them to be. Further, there is no evidence that Exhibit 1028 is self-authenticating under F.R.E. 902.

VI. Exhibits 1029 & 1031: Documents filed in *URT Umwelt und Recyclingtechnik GMBH (“URT”) v. Duesenfeld GMBH*, IPR2024-00887.

Patent Owner objects to Exhibits 1029 (POR filed in IPR2024-00887) and 1031 (Dantam Declaration filed in support of the same) – which are both submissions made in the IPR petition against the '097 Patent filed by URT, not this petition – based on FRE 401/402 (relevance) and FRE 403 (probative value outweighed by prejudice, confusing, waste of time), including because Petitioner does not cite the exhibit in its Reply. Furthermore, Patent Owner objects to these exhibits as improperly incorporated by reference in Petitioner's Reply. *See* 37 C.F.R. § 42.6(a)(3) (“Arguments must not be incorporated by reference from one document into another document. Combined motions, oppositions, replies, or other combined documents are not permitted.”) Exhibits 1029 and 1031 are not directly cited in Petitioner's Reply and appear to be cited only in conjunction with statements in Dr. van Schalkwijk's Declaration (Ex. 1023).

VII. Exhibits 1030, 1032 to 1038: Articles, Patents, and Website Printouts.

Patent Owner objects to Exhibits 1030, and 1032 to 1038 based on FRE 401/402 (relevance) and FRE 403 (probative value outweighed by prejudice, confusing, waste of time), including because Petitioner does not cite the exhibit in its Reply. Furthermore, Patent Owner objects to Exhibits 1030, and 1033 to 1038 as improperly incorporated by reference in Petitioner's Reply to Patent Owner's Response (Paper No. 30). *See* 37 C.F.R. § 42.6(a)(3) (“Arguments must not be incorporated by reference from one document into another document. Combined

motions, oppositions, replies, or other combined documents are not permitted.”)

These exhibits are not directly cited in Petitioner’s Reply and appear to be cited only in conjunction with statements in Dr. van Schalkwijk’s Declaration (Ex. 1023).¹

Patent Owner further objects to Exhibits 1030, 1032, and 1034 to 1038 based on FRE 801 to 803 as containing impermissible hearsay to the extent these exhibits are offered for the truth of the matter asserted in them without establishing that any valid hearsay exception applies.

Patent Owner further objects to Exhibits 1030, 1032, and 1034 to 1038 based on FRE 901 because Petitioner has failed to authenticate the documents by presenting sufficient evidence to support a finding that the documents are what Petitioner claims them to be. Further, there is no evidence that these exhibits are self-authenticating under F.R.E. 902.

Date: May 16, 2025

Respectfully submitted,

ROBINS KAPLAN LLP

/s/ Steven C. Carlson

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¹ For clarity, Exhibit 1032 is not cited either in the Petitioner’s Reply or in Dr. van Schalkwijk’s Declaration filed in support thereof. Exhibits 1030, and 1033 to 1038 are cited only in Dr. van Schalkwijk’s Declaration (but not in the Reply itself).

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**ATTORNEYS FOR PATENT OWNER
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CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2025, a copy of this Patent Owner's Objections to Petitioner's Evidence has been served in its entirety via e-mail on Attorneys for Petitioner at the following e-mail addresses:

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