

Filed on behalf of ST Reproductive Technologies, LLC.
By: Daniel L. Moffett (dmoffett@akingump.com)
AKIN GUMP STRAUSS HAUER & FELD LLP
112 E. Pecan Street, Suite 1010
San Antonio, Texas 78205
Tel: (210) 281-7106
Fax: (210) 224-2035

Paper No. 25
Date Filed:
August 5, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SMAXTEC INC. and
SMAXTEC ANIMAL CARE GMBH,
Petitioners

v.

ST REPRODUCTIVE TECHNOLOGIES, LLC,
Patent Owner

Case IPR2024-01067
Patent No. 10,231,644

**ST REPRODUCTIVE TECHNOLOGIES, LLC'S
OBJECTIONS TO EVIDENCE PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner ST Reproductive Technologies, LLC (“Patent Owner”) objects to the admissibility of Exhibit 1025, which was submitted by Petitioners along with Paper No. 21 (“Reply”). Patent Owner’s objections are timely under 37 C.F.R. § 42.64(b)(1) because they are being filed and served within five business days of service of the Reply and its attached exhibits. Patent Owner’s objections provide notice to Petitioners that Patent Owner may move to exclude this exhibit under 37 C.F.R. § 42.64(c).

I. EXHIBIT 1025

Exhibit 1025 is the Reply Declaration of Darrin Young.

Patent Owner objects to Exhibit 1025 as untimely because Petitioners should have introduced it in the Petition, and it is improper new evidence or supplemental information. *See* 37 C.F.R. § 42.104(b); 37 C.F.R. § 42.23(b); 37 C.F.R. § 42.123. For example, Exhibit 1025 contains new opinions and arguments that were not included in Dr. Young’s original expert declaration or the Petition, and thus are not proper reply opinions and are in violation of 37 C.F.R. § 42.23(b). *See, e.g.*, EX1025 at ¶¶10-11, 14, 17, 24, 30-31; *see also* Consolidated Trial Practice Guide at 73 (Nov. 21, 2019) (“Petitioner may not submit new evidence or argument in reply that it could have presented earlier, e.g. to make out a prima facie case of unpatentability.”).

Furthermore, Patent Owner objects to Exhibit 1025 under Federal Rules of Evidence (“Fed. R. Evid.”) 401, 402, and 403. Exhibit 1025 presents testimony that was not presented earlier and is not in response to Patent Owner’s Response or supporting exhibits. Accordingly, Exhibit 1025 does not pass the test of relevant evidence under Fed. R. Evid. 401 and is thus not admissible under Fed. R. Evid. 402. Moreover, any probative value of Exhibit 1025 is outweighed by unfair prejudice to Patent Owner under Fed. R. Evid. 403 because the rules do not provide an opportunity for Patent Owner to submit a responsive supplemental expert declaration. Accordingly, Patent Owner objects to the use of Exhibit 1025 to the extent the Reply references or relies on any statement or argument in Exhibit 1025 not included in the Petition.

Dated: August 5, 2025

Respectfully submitted,

By: /Daniel L. Moffett/

Daniel L. Moffett

Registration No. 60,715

dmoffett@akingump.com

Megan Mahoney

Registration No. 80,921

mmahoney@akingump.com

Thomas W. Landers

Admitted *Pro Hac Vice*

twlanders@akingump.com

AKIN GUMP STRAUSS HAUER &
FELD LLP

112 E. Pecan Street, Suite 1010

San Antonio, Texas 78205

Tel: 210-281-7100

Fax: 210-224-2035

Counsel for Patent Owner

ST Reproductive Technologies, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served on counsel of record on August 5, 2025 by filing this document through the Patent Trial and Appeal Case Tracking System (P-TACTS), as well as delivering a copy via electronic mail to counsel of record for the Petitioners at the following addresses:

GIBSON, DUNN & CRUTCHER LLP
Brian M. Buroker – BBuroker@gibsondunn.com
Benjamin Hershkowitz – BHershkowitz@gibsondunn.com
Nathan Curtis – NCurtis@gibsondunn.com
David Glandorf – DGlandorf@gibsondunn.com
GDC-smaXtec-IPRs@gibsondunn.com

Dated: August 5, 2025

Respectfully submitted,

By: /Daniel L. Moffett/
Daniel L. Moffett
Registration No. 60,715
Counsel for Patent Owner