

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SOLARIS OILFIELD SITE SERVICES OPERATING, LLC and SOLARIS
OILFIELD SITE SERVICES PERSONNEL, LLC,
Petitioners,

v.

MASABA, INC.
Patent Owner.

Case IPR2024-01179
Patent No. 11,780,689

**PETITIONERS' OBJECTIONS UNDER 37 C.F.R. § 42.64(B) TO
PATENT OWNER'S EVIDENCE SUBMITTED WITH
PATENT OWNER RESPONSE**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioners Solaris Oilfield Site Services Operating, LLC and Solaris Oilfield Site Services Personnel, LLC (“Petitioners”) respectfully submit the following objections to evidence filed by Patent Owner Masaba, Inc. (“Patent Owner”) with the Patent Owner’s Response (Paper 11). These objections are timely, as they are being made within five business days of service of the evidence (the evidence was served with Patent Owner’s response on April 28, 2025).

The following chart lists Petitioners’ objections to the admissibility of certain evidence (identified below) that is included within or accompanies the Patent Owner’s Response and the basis for those objections:

Objected to Exhibit	Basis for Objection
Exhibit 2005 – Declaration of Dan Brinkman	FRE 801, 802: To the extent Patent Owner relies on the contents of Exhibit 2005 for the truth of the matter asserted, Petitioners object to Exhibit 2005 as containing inadmissible hearsay under FRE 801, 802, and 805 that does not fall under any exception. For example, the declaration includes statements reporting out-of-court statements by other individuals at paragraphs 10, 11, 14, and 15 that do not fall under any exception.

Objected to Exhibit	Basis for Objection
	<p>FRE 701: Petitioners object to the contents of Exhibit 2005 to the extent it contains opinion testimony, for example, in paragraphs 12 and 24. Mr. Brinkman has not been shown to be qualified as an expert or a person of skill in the art, and thus may not give opinion testimony.</p> <p>FRE 602: Petitioners object to the contents of Exhibit 2005 to the extent the declarant has not established that he has personal knowledge of the stated matters, for example, in paragraphs 2, 12 and 24.</p>
Exhibit 2006 – Declaration of Mike Stanton	<p>FRE 801, 802: To the extent Patent Owner relies on the contents of Exhibit 2006 for the truth of the matter asserted, Petitioners object to Exhibit 2006 as containing inadmissible hearsay under FRE 801, 802, and 805 that does not fall under any exception. For example, the declaration includes statements reporting out-of-court statements by other individuals at paragraphs 4-9 and Exhibits A-C that</p>

Objected to Exhibit	Basis for Objection
	<p>do not fall under any exception. Exhibits A-C themselves are also inadmissible hearsay under FRE 801 and 802 that do not fall under any exception.</p> <p>FRE 602: Petitioners object to the contents of Exhibit 2006 to the extent the declarant has not established that he has personal knowledge of the stated matters, for example, in paragraphs 2, 3, and 10.</p> <p>FRE 701: Petitioners object to the contents of Exhibit 2006 to the extent it contains opinion testimony, for example, in paragraph 11. Mr. Stanton has not been shown to be qualified as an expert or a person of skill in the art, and thus may not give opinion testimony.</p>
<p>Exhibit 2032 -- CTRM Center, “No, its not ‘Fracking’” (website)</p>	<p>FRE 801, 802: To the extent Patent Owner relies on the contents of Exhibit 2032 for the truth of the matter asserted, Petitioners object to Exhibit 2032 as inadmissible hearsay under FRE 801, 802, and 805 that does not fall under any exception.</p>

Objected to Exhibit	Basis for Objection
	<p>FRE 901, 902: Petitioners object to Exhibit 2032 as not properly authenticated under FRE 901 because Patent Owner has not presented evidence sufficient to support a finding that the document in question is what Patent Owner claims. Exhibit 2032 is undated, and there is no evidence that the document is self-authenticating under FRE 902.</p>
<p>Exhibit 2033 -- Drillers.com, “Fracking Vs Fracing – The End of the Debate?” (website)</p>	<p>FRE 801, 802: To the extent Patent Owner relies on the contents of Exhibit 2033 for the truth of the matter asserted, Petitioners object to Exhibit 2033 as inadmissible hearsay under FRE 801, 802, and 805 that does not fall under any exception.</p> <p>FRE 901, 902: Petitioners object to Exhibit 2033 as not properly authenticated under FRE 901 because Patent Owner has not presented evidence sufficient to support a finding that the document in question is what Patent Owner claims. Exhibit 2033 is undated, and there is no evidence that the document is self-authenticating under FRE 902.</p>

Objected to Exhibit	Basis for Objection
<p>Exhibit 2035 -- American Concrete Institute, “What is aggregate?” (website)</p>	<p>FRE 801, 802: To the extent Patent Owner relies on the contents of Exhibit 2035 for the truth of the matter asserted, Petitioners object to Exhibit 2035 as inadmissible hearsay under FRE 801, 802, and 805 that does not fall under any exception.</p> <p>FRE 901, 902: Petitioners object to Exhibit 2035 as not properly authenticated under FRE 901 because Patent Owner has not presented evidence sufficient to support a finding that the document in question is what Patent Owner claims. Exhibit 2035 is undated, and there is no evidence that the document is self-authenticating under FRE 902.</p>
<p>Exhibit 2037 -- Amended Complaint and Jury Demand, <i>Masaba, Inc. v. Solaris Oilfield Site Services Operating, LLC</i>, Civil Action 2:23-CV-00236 (D. Wyo. June 14, 2024)</p>	<p>FRE 801, 802: To the extent Patent Owner relies on the contents of Exhibit 2037 for the truth of the matter asserted, Petitioners object to Exhibit 2037 as inadmissible hearsay under FRE 801, 802, and 805 that does not fall under any exception. For example, the amended complaint includes several documents attached to the complaint that are hearsay.</p>

Objected to Exhibit	Basis for Objection
	FRE 701: Petitioners object to the contents of Exhibit 2037 to the extent it contains opinion testimony, for example, in the attachments / exhibits to the amended complaint.

Dated: May 5, 2025

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 5, 2025 a true and correct copy of the foregoing document was served electronically via e-mail in its entirety on counsel identified below by Patent Owner for service at:

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Dated: May 05, 2025

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