

Case IPR2024-01312
U.S. Patent No. 11,697,028

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BIOFRONTERA INC., BIOFRONTERA BIOSCIENCE GMBH,
BIOFRONTERA PHARMA GMBH, and BIOFRONTERA AG
Petitioner

v.

SUN PHARMACEUTICAL INDUSTRIES, INC.
Patent Owner

Case IPR2024-01312

U.S. Patent No. 11,697,028

PATENT OWNER'S OBJECTIONS TO EVIDENCE
FILED WITH PETITIONER'S REPLY

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

Pursuant to the Federal Rules of Evidence (F.R.E.) and 37 C.F.R. § 42.64, Patent Owner Sun Pharmaceutical Industries, Inc. (“Patent Owner” or “Sun Pharma”) timely objects to evidence submitted by Petitioners Biofrontera Inc., Biofrontera Bioscience GmbH, Biofrontera Pharma GmbH, and Biofrontera AG (collectively “Petitioners” or “Biofrontera”) with Petitioner’s Reply (Paper 29) in IPR2024-01312. Patent Owner serves Petitioners with these objections to provide notice that Patent Owner may move to exclude the challenged exhibits under 37 C.F.R. § 42.64(c).

**Exhibit 1026 – Supplemental Declaration of Dr. Robert Grove And Any
Reference To Or Reliance Thereon**

Patent Owner objects to Petitioner’s use of Exhibit 1026 under F.R.E. 401, 402, 403, and 37 C.F.R. § 42.61. Exhibit 1026 is the Supplemental Declaration of Dr. Robert Grove. Exhibit 1026 lacks relevance under F.R.E. 401 and 402 because it exceeds the proper scope of Petitioner’s Reply. *See* 37 C.F.R. § 42.23(b). Patent Owner further objects to Exhibit 1026 under F.R.E. 403 because of the unfair prejudice arising from the untimely evidence and arguments therein. Exhibit 1026 includes new testimony and evidence that Petitioners use in their Reply, raising new issues that could have and should have been presented in the original Petition and Dr. Grove’s original declaration. As examples, Dr. Grove offers entirely new opinions about the purported knowledge of a POSA and obviousness, such as

previously undisclosed positions and arguments asserting that a POSA would know how to position the LED light sources to achieve the desired illumination uniformity. *See, e.g.*, Exhibit 1026 ¶¶10-21.

Patent Owner further objects to this exhibit and any reference to or reliance thereon under F.R.E. 801, 802, and 805 as impermissible hearsay, for which Petitioner has not demonstrated any exception or exclusion to the rule against hearsay.

Patent Owner further objects to the admissibility of this exhibit and any reference to or reliance thereon under F.R.E. 702. Dr. Grove's opinions are inadmissible because they are conclusory, do not disclose underlying facts or data in support of his opinions, and are unreliable.

Exhibits 1031 And 1033 And Any Reference To Or Reliance Thereon

Patent Owner objects to pages 489–92, 503–04, 509–29, 549, 550–54, 555–95, and 597–666 of Exhibit 1031 and pages 303–29, 364–78, 387–405, 409–10, 425–55 of Exhibit 1033 and any reference to or reliance thereon under F.R.E. 801, 802, and 805 as impermissible hearsay, for which Petitioner has not demonstrated any exception or exclusion to the rule against hearsay. Patent Owner objects in particular to 591:5–7, 592:2–8, 593:9–22, 594:17–595:6, and 587:4–588:21 of Exhibit 1031 (testimony from Dr. Grove, Biofrontera's expert); and 410:3-8 of

Exhibit 1033 (testimony from Mr. Leffler, Biofrontera's CFO) and any reference to or reliance thereon under F.R.E. 801, 802, and 805 as impermissible hearsay.

Patent Owner further objects to these portions of Exhibit 1031 and Exhibit 1033 under F.R.E. 401, 402, 403, and 37 C.F.R. § 42.61. Exhibits 1031 and 1033 lack relevance under F.R.E. 401 and 402 because they exceed the proper scope of Petitioner's Reply. *See* 37 C.F.R. § 42.23(b). Patent Owner further objects to these portions of Exhibit 1031 and Exhibit 1033 under F.R.E. 403 because of the unfair prejudice arising from the untimely evidence and arguments therein. Exhibits 1031 and 1033 include new opinions and evidence that Petitioners use in their Reply, raising new issues that could have, and should have, been presented in the original Petition. For example, Petitioner relies on new testimony from Dr. Grove that contains opinions on obviousness that could have and should have been presented in his original declaration, and is not included in his supplemental declaration. *See, e.g.,* Exhibit 1031, 592:2–8; Reply at 24.

Exhibit 2011 And Any Reference To Or Reliance Thereon

Patent Owner objects to Petitioner's use of Exhibit 2011 under F.R.E. 401, 402, 403, and 37 C.F.R. § 42.61. Petitioner's use of Exhibit 2011 lacks relevance under F.R.E. 401 and 402 because it exceeds the proper scope of Petitioner's Reply. *See* 37 C.F.R. § 42.23(b). Patent Owner further objects to Petitioner's use of Exhibit 2011 under F.R.E. 403 because of the unfair prejudice arising from the untimely

evidence and arguments therein. Petitioners rely on Exhibit 2011 to support new arguments, raising new issues that could have and should have been presented in the Petition and Dr. Grove's original declaration. For example, Petitioner relies on Exhibit 2011 to support a new obviousness argument regarding the "individually configurable" limitation. *See, e.g.,* Reply at 27.

Patent Owner further objects to any reference to or reliance thereon of Exhibit 2011 under F.R.E. 801, 802, and 805 as impermissible hearsay, for which Petitioner has not demonstrated any exception or exclusion to the rule against hearsay.

Portions of Exhibits 1004 And 1014 Not Relied On In The Petition

Patent Owner objects to Petitioner's use of the portions of Exhibit 1004 and Exhibit 1014 that were not relied on in its Petition under F.R.E. 401, 402, 403, and 37 C.F.R. § 42.61. Petitioner's use of the portions of Exhibits 1004 and 1014 that were not relied on in its Petition lacks relevance under F.R.E. 401 and 402 because it exceeds the proper scope of Petitioner's Reply. *See* 37 C.F.R. § 42.23(b). Patent Owner further objects to Petitioner's use of the portions of Exhibits 1004 and 1014 that were not relied on in its Petition under F.R.E. 403 because of the unfair prejudice arising from the untimely evidence and arguments therein. Petitioners rely on portions of Exhibits 1004 and 1014 for the first time in its Reply to support new arguments, raising new issues that could have and should have been presented in the Petition. For example, Petitioner relies on a newly cited portion of Exhibit 1004 to

support a new obviousness argument regarding the “individually configurable” limitation. *See* Reply at 26-27 (citing Exhibit 1004, claim 5); *see also* Reply at 25 (citing Exhibit 1004, Fig. 2d), Reply at 4 (citing Exhibit 1014, 8:65-67), Reply at 5 (citing Exhibit 1014, 7:11-8:59, 9:39-54); Reply at 13 (citing Exhibit 1014, 2:35-40, 2:60-67, 3:29-38).

Dated: August 20, 2025

Respectfully submitted,

/Yung-Hoon Ha/

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Counsel for Patent Owner,

Sun Pharmaceutical Industries, Inc.

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on August 20, 2025, a complete copy of the foregoing was served on counsel of record for Petitioner by filing this document through P-TACTS and by sending this document via electronic mail to the following addresses:

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