

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GENEOSCOPY, INC.,
Petitioner

v.

EXACT SCIENCES CORPORATION,
Patent Owner

Case No. IPR2024-01330
U.S. Patent No. 11,970,746

PATENT OWNER'S SECOND NOTICE OF OBJECTIONS TO EVIDENCE

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Exact Sciences Corporation (“Patent Owner”), submits the following objections to Petitioner Geneoscopy, Inc.’s (“Petitioner”) Exhibits 1086 and 1088-1091. As required by 37 C.F.R. § 42.62, Patent Owner’s objections below apply the Federal Rules of Evidence (“FRE”).

II. OBJECTIONS

A. Objections to Exhibit 1086 – Second Declaration of Dr. Duncan Whitney

Grounds for Objection: FRE 401-403, 701-702, 801-803, 37 C.F.R. § 42.23

Patent Owner objects to the admissibility of certain portions of Exhibit 1086 under FRE 401-403. Patent Owner objects to Exhibit 1086 to the extent that is not cited in Petitioner’s Reply, including but not limited to paragraphs 1-21, 25, 37-45, 52-64, 75-76, 105-110, 115, and 126-128. Because petitioner’s reply does not rely on those portions of Exhibit 1086, they are not relevant to the instituted grounds of review. Further, to the extent the uncited portions of Exhibit 1086 are deemed relevant, their admission would be unduly prejudicial, misleading, and a waste of time in view of the fact that they are not cited in petitioner’s reply. Patent Owner also objects to the admissibility of Ex. 1086 under FRE 701-702 to the extent Dr. Whitney offers

unsupported opinions and/or opinions outside the scope of his expertise. Patent Owner also objects to the admissibility of Exhibit 1086 under FRE 801-803 to the extent it includes hearsay.

Patent Owner further objects to Exhibit 1086 under 37 C.F.R. § 42.23(b) to the extent it contains impermissible new evidence cited in Petitioner's Reply in support of new arguments that were not made in the Petition, including, but not limited to, paragraphs 27-29, 31-32, 35-41, 43-56, 59-60, 63-64, 65-68, 72-73, 78-104, 112-114, 116, 118-119, 122-125, 129-130, 132, 134-142.

**B. Objections to Exhibit 1088 – Backman Deposition
Transcript in IPR2024-00459**

Grounds for Objection: FRE 401-403

Patent Owner objects to the admissibility of Ex. 1088 under FRE 401-403 to the extent it contains testimony irrelevant to the proceeding.

**C. Objections to Exhibit 1089 – Backman Deposition
Transcript in IPR2024-01330**

Grounds for Objection: FRE 401-403, 37 C.F.R. § 42.53

Patent Owner objects to the admissibility of Ex. 1089 under FRE 401-403 to the extent it contains testimony irrelevant to the proceeding. Patent Owner further objects to the admissibility of Exhibit 1089 under 37 C.F.R. § 42.53(d)(5) to the extent that it exceeds the scope of direct testimony.

D. Objections to Exhibit 1090 – Van Rossum

Grounds for Objection: FRE 401-403, 37 C.F.R. § 42.23

Patent Owner objects to the admissibility of Exhibit 1090 under FRE 401-403 as irrelevant to the merits of the proceeding, and because its probative value, if any, is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time. Patent Owner further objects to the admissibility of Exhibit 1090 under 37 C.F.R. § 42.23(b) because it is impermissible new evidence in support of new arguments that were not made in the Petition.

E. Objections to Exhibit 1091 – Feiger

Grounds for Objection: FRE 401-403, 37 C.F.R. § 42.23

Patent Owner objects to the admissibility of Exhibit 1091 under FRE 401-403 as irrelevant to the merits of the proceeding, and because its probative value, if any, is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time. Patent Owner further objects to the admissibility of Exhibit 1091 under 37 C.F.R. § 42.23(b) because it is impermissible new evidence in support of new arguments that were not made in the Petition.

**F. Objections to Exhibit 1092 – Second Declaration of
Brendan T. Jones**

Grounds for Objection: FRE 401-403, 602, 801-803, 901-902.

Patent Owner objects to the admissibility of Exhibit 1092 under FRE 401-403, 602, 801-803, and 901-902. Patent Owner objects to Exhibit 1092 as it is not cited by the petition. Because the petition does not rely on Exhibit 1092, it is not relevant to the instituted grounds of review. Further, to the extent Exhibit 1092 is deemed relevant, its admission would be unduly prejudicial, misleading, and a waste of time in view of the fact that it is not cited in the petition. Moreover, Petitioner proffers Exhibit 1092 as a declaration of Brendan T. Jones. Patent Owner objects to Exhibit 1092 under FRE 602 for Petitioner's failure to introduce sufficient evidence to establish that the declarant, Brendan T. Jones, had personal knowledge of the subject matter stated in Exhibit 1092. In addition, Patent Owner objects to Exhibit 1092 as hearsay. Patent Owner further objects to Exhibit 1092 as Petitioner has not established that the items described in Exhibit 1092 are printed publications, including the dates by which they became publicly available. Petitioner has not produced evidence sufficient to support a finding that the items identified in Exhibit 1092 are what Petitioner claims they are.

Date: August 29, 2025

By: James M. Glass

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CERTIFICATE OF SERVICE (37 C.F.R. §§ 42.6(E), 42.105(A))

The undersigned hereby certifies that the foregoing document was served in its entirety on August 29, 2025 upon the following parties via Electronic Mail:

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Date: August 29, 2025

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