

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HOME DEPOT U.S.A., INC.,
Petitioner

v.

SECURITY TECHNOLOGY, LLC,
Patent Owner

Case IPR2024-01420
U.S. Patent No. 11,562,402

**PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

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 37 C.F.R. § 42.64(b)(1), Patent Owner Security Technology, LLC (“Patent Owner”) objects under the Federal Rules of Evidence (“F.R.E.”) to the admissibility of Exhibits 1003, 1006, 1010, and 1011, which Petitioner filed with its Petition.

Patent Owner timely objects under 37 C.F.R. § 42.64(b)(1) within the allowed ten business days of the institution of trial.

I. EXHIBITS 1006 AND 1010

Patent Owner objects to Exhibits 1006 and 1010 under F.R.E. 401, 402, and 403 for including information that is irrelevant or whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.

Patent Owner also objects to Exhibits 1006 and 1010 as impermissible hearsay under F.R.E. 801 and 802 to the extent these exhibits are offered for the truth of the matters asserted. Petitioner has not identified any applicable exception or exclusion to the rule against hearsay that applies to these exhibits.

Patent Owner further objects to Exhibits 1006 and 1010 under F.R.E. 901 because Petitioner has not presented evidence sufficient to support a finding that the documents in question are what Petitioner claims them to be. There is no evidence that the documents are self-authenticating under F.R.E. 902.

II. EXHIBIT 1011 – DECLARATION OF DR. SYLVIA HALL-ELLIS

Patent Owner objects to Exhibit 1011, including at least paragraphs 20–55, as improper expert testimony under F.R.E. 702 and 703. There has not been an adequate showing that Dr. Hall-Ellis’s testimony is based on sufficient facts or data, is the product of reliable principles or methods, or that the testimony will help the Board understand the evidence or determine a fact in issue.

Patent Owner further objects to Exhibit 1011 under 37 C.F.R. § 42.63(a) for improperly referencing website content and attachments that have not been filed in the form of an exhibit.

Patent Owner also objects to Attachments 1A, 1B, 1C, 2A, 2B, 2C, 2D, and 2E of Exhibit 1011 as impermissible hearsay under F.R.E. 801 and 802 to the extent these attachments are offered for the truth of the matters asserted. Petitioner has not identified any applicable exception or exclusion to the rule against hearsay that applies to these exhibits.

Patent Owner further objects to Attachments 1A, 1B, 1C, 2A, 2B, 2C, 2D, and 2E of Exhibit 1011 under F.R.E. 901 because Petitioner has not presented evidence sufficient to support a finding that the documents in question are what Petitioner and Dr. Hall-Ellis claim them to be. There is no evidence that the documents are self-authenticating under F.R.E. 902.

Patent Owner further objects to Exhibit 1011 to the extent it relies on Attachments 1A, 1B, 1C, 2A, 2B, 2C, 2D, and 2E for the same reasons as provided above, and/or because Attachments 1A, 1B, 1C, 2A, 2B, 2C, 2D, and 2E are not qualified to be the basis for an expert opinion under F.R.E. 703. Therefore, these portions of Exhibit 1011 are inadmissible under F.R.E. 702 and F.R.E. 703.

III. EXHIBIT 1003 – DECLARATION OF ROBERT J. SHERWOOD

Patent Owner objects to Exhibit 1003 to the extent it relies on Exhibits 1006, 1010, and 1011 for the same reasons as provided above, and/or because Exhibits 1006, 1010, and 1011 are not qualified to be the basis for an expert opinion under F.R.E. 703. Therefore, these portions of Exhibit 1003 are inadmissible under F.R.E. 702 and F.R.E. 703.

Patent Owner also objects to Exhibit 1003, including at least paragraphs 54–55 and 75–202, as improper expert testimony under F.R.E. 702 and 703. There has not been an adequate showing that Mr. Sherwood’s testimony is based on sufficient facts or data, is the product of reliable principles or methods, or that the testimony will help the Board understand the evidence or determine a fact in issue.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX PLLC

/Steven M. Pappas/

Steven M. Pappas
Registration No. 73,904
Attorney for Patent Owner

Date: April 7, 2025

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CERTIFICATION OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE PURSUANT TO 37 C.F.R. § 42.64(b)(1)** was served electronically via e-mail on April 7, 2025, in its entirety on the following:

Jennifer Librach Nall (Lead Counsel)
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Respectfully Submitted,

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Date: April 7, 2025

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