

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

R.J. REYNOLDS VAPOR COMPANY,
Petitioner,

v.

HEALTHIER CHOICES MANAGEMENT CORP.
Patent Owner.

IPR2024-01458
U.S. Patent No. 9,538,788

PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b)(1), Healthier Choices Management Corp. (“Patent Owner”) submits the following objections to exhibits Petitioner R.J. Reynolds Vapor Company (“Petitioner”) served with its Petition for *Inter Partes* Review on September 18, 2024. Patent Owner’s objections apply equally to Petitioner’s reliance on this evidence in any subsequently filed documents or further proceedings in this matter. These objections are timely served within ten business days of the PTAB’s March 12, 2025, Institution Decision (Paper 7). Notwithstanding these objections, Patent Owner expressly reserves the right to rely on any evidence submitted by Petitioner, including on the ground that such evidence constitutes a party admission.

OBJECTIONS

Exhibits 1003, 1008

Patent Owner objects to Exhibits 1003 and 1008 under FRE 106, 701, 702, and 703 as improper expert testimony to the extent it does not rely on the kinds of facts or data that experts in the relevant field would reasonably rely on in forming an opinion on the subject and failing to properly provide the underlying facts, data, and other required disclosures. Specifically, Patent Owner objects to Exhibit 1003 under FRE 106 as an incomplete exhibit at least for failing to include an identification of Mr. Kodama’s list of matters on which he was consulted, which is referenced in Exhibit 1003 at ¶ 10.

Exhibit 1005

Patent Owner objects to Exhibit 1005 under FRE 604, 901, and 902 to the extent the translation is not accurate and as not properly authenticated because Petitioner has not presented sufficient evidence to show that it is authentic or self-authenticating, and to the extent the attached Certification of Translation Accuracy does not comply with the requirements of 28 U.S.C. § 1746.

Respectfully submitted,

Dated: March 26, 2025

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Lead Counsel for Patent Owner

CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2025, a true and correct copy of the foregoing PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE was served on counsel of record for Petitioner by filing this document through the P-TACTS System as well as delivering a copy via electronic mail to the following addresses:

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