

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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ARLA FOODS AMBA,

PETITIONER

V.

LEPRINO FOODS COMPANY,

PATENT OWNER.

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IPR2025-01199

Patent 11,825,860

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

## **I. INTRODUCTION**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner Arla Foods amba (“Petitioner” or “Arla”) objects to Exhibits EX-2007, 2012, 2013, 2014, 2015, 2018, 2019, 2020, 2021, 2027, 2028, 2030, 2031, 2033, 2034, and 2035 submitted by Patent Owner Leprino Foods Company (“Patent Owner”) with its Patent Owner’s Response (Paper 21) and its Motion to Amend (Paper 22) filed April 21, 2026. The objections are based on 37 C.F.R. Part 42, and the relevant portions of Federal Rules of Evidence (“F.R.E.”) that apply to *inter partes* review proceedings under 37 C.F.R. § 42.62.

## **II. OBJECTIONS TO EVIDENCE**

### **A. EX-2007 (Transcript of Ms. Jaeger’s Deposition)**

Petitioner objects to the following portions of EX-2007: 28:9-31:8; 36:21-37:5; 39:15-39:23; 41:4-42:14; 45:7-52:9; 52:24-55:7; 58:25-60:2; 108:16-109:2; 109:15-110:15. These portions of the transcript reflect testimony elicited by Patent Owner’s questions that exceeded the proper scope of cross-examination of the witness’s direct testimony, as set forth in her declaration (EX-1021), in violation of F.R.E. 611(b) and 37 C.F.R. § 42.53(d)(2). The questions underlying the objected-to testimony addressed matters beyond the subject matter of the witness’s direct testimony and did not pertain to the witness’s credibility. Because these portions of the testimony fall outside the scope of the witness’s declaration and the issues to which it was directed, it is not relevant to any matter at issue in this proceeding under F.R.E. 402. To the extent the Board considers any of this testimony marginally

relevant, it is inadmissible under F.R.E. 403 because its probative value is substantially outweighed by the danger of confusing the issues and needlessly prolonging the proceeding.

**B. EX-2012 (Hu et al.)**

Petitioner objects to Exhibit 2012 and any testimony relying thereon in Patent Owner's expert declaration, including ¶69 of EX-2005. EX-2012 was published after the priority date of the '860 patent and is directed to a non-analogous field, specifically, cold-pasteurization or sterilization for the aseptic packaging of beverages. *See* EX-2012, Abstract. Thus, it is irrelevant under F.R.E. 401 and 402. Its admission would risk misleading the Board, substantially outweighing any probative value under F.R.E. 403, and the expert's reliance on it fails to satisfy F.R.E. 702.

EX-2012 further constitutes inadmissible hearsay under F.R.E. 801(c) and 802, and is not otherwise admissible under F.R.E. 703.

**C. EX-2013 (Jacob et al.) and EX-2014 (Lai et al.)**

Petitioner objects to EX-2013 and EX-2014 and any testimony relying thereon in Patent Owner's expert declaration, including ¶¶114-19 of EX-2005. EX-2013 and EX-2014 are directed to the field of potent therapeutic drugs (EX-2013, Abstract; EX-2014, Abstract), which is non-analogous to the technology at issue in this proceeding. Thus, EX-2013 and EX-2014 are irrelevant under F.R.E. 401 and 402.

Their admission would risk misleading the Board, substantially outweighing any probative value under F.R.E. 403, and the expert's reliance on them fails to satisfy F.R.E. 702 or 703.

**D. EX-2015 (S. Adav)**

Petitioner objects to EX-2015 and any testimony relying thereon in Patent Owner's expert declaration, including ¶¶114-17 of EX-2005. EX-2015 is a publication published after the priority date of the patent at issue and directed to a non-analogous field, specifically, protein deamidation and its influence on aging, disease progression, forensics, and therapeutic efficacy. *See* EX-2015, Title, Abstract. Thus, it is irrelevant under F.R.E. 401 and 402. Its admission would risk misleading the Board, substantially outweighing any probative value under F.R.E. 403, and the expert's reliance on it fails to satisfy F.R.E. 702 or 703.

**E. EX-2018 (Dry Whey Standard)**

Petitioner objects to EX-2018 which lacks authentication under F.R.E. 901. EX-2018 is only cited in Patent Owner's Motion to Amend, and not cited in the Patent Owner Response or Patent Owner's expert declaration. Patent Owner attempts to rely on the purported dry whey standard described in EX-2018 to establish the cheese whey content of Ozturk (EX-1008, published in 2022). *See* Paper 22, 17. Therefore, EX-2018 constitutes inadmissible hearsay under F.R.E. 801(c) and 802. Additionally, Patent Owner has failed to provide sufficient evidence

to support a finding that EX-2018 is what Patent Owner claims it to be—and more importantly—that the alleged dry whey standard in EX-2018 was the standard in place before Ozturk was published. On its face, EX-2018 states an effective date of July 4, 2023, which is after the January 13, 2023 priority date of the '860 patent. Patent Owner's updated exhibit list asserts that EX-2018 was accessed on April 17, 2021, but Patent Owner has offered no evidence to establish that the version of the document accessed on that date contained the same content as EX-2018 or that EX-2018 was available in its current form as of April 17, 2021. Indeed, the link itself provided in Patent Owner's updated exhibit list directs to the July 4, 2023 version of the alleged standard, further undermining any claim that the document predates the priority date. Absent proper authentication, EX-2018 is inadmissible.

EX-2018 is irrelevant under F.R.E. 401 and 402 because it is dated after the priority date and has no tendency to make any fact of consequence more or less probable. Its admission would risk misleading the Board, substantially outweighing any probative value under F.R.E. 403.

**F. EX-2019 (GEA Liquid Technologies)**

Petitioner objects to EX-2019 and any testimony relying thereon in Patent Owner's expert declaration, including ¶¶21-25, 70 of EX-2005. EX-2019 lacks authentication under F.R.E. 901. Patent Owner has not established that EX-2019 was

publicly available or existed in its current form as of the priority date. Absent proper authentication, EX-2019 is inadmissible.

EX-2019 itself indicates a publication date of May 3, 2023 (EX-2019, p.28), which is after the priority date of the '860 patent. As a post-priority-date publication, EX-2019 is irrelevant under F.R.E. 401 and 402 because a document published after the priority date has no tendency to make any fact of consequence more or less probable. Its admission would risk misleading the Board, substantially outweighing any probative value under F.R.E. 403.

**G. EX-2020 (American Dairy Products Institute)**

Petitioner objects to EX-2020. EX-2020 was not cited or relied upon in Patent Owner's Response, expert declaration, or motion to amend filings, and Patent Owner has identified no basis for its relevance to any issue in this proceeding. EX-2020 is therefore irrelevant under F.R.E. 401 and 402. EX-2020 also lacks authentication under F.R.E. 901. EX-2020 itself indicates a publication date of 2024 (EX-2020, 2), which is after the priority date of the '860 patent. Patent Owner has not established that EX-2020 was publicly available or existed in its current form as of the priority date. Absent proper authentication, EX-2020 is inadmissible.

Moreover, as a post-priority-date publication, EX-2020 has no tendency to make any fact of consequence more or less probable under F.R.E. 401 and 402. Its

admission would risk misleading the Board and confusing the issues, substantially outweighing any probative value under F.R.E. 403.

**H. EX-2021 (Warner et al.)**

Petitioner objects to EX-2021 and any testimony relying thereon in Patent Owner's expert declaration, including ¶18 of EX-2005. EX-2021 constitutes inadmissible hearsay under F.R.E. 801(c) and 802, and is not otherwise admissible under F.R.E. 703.

EX-2021 appears to have been published on May 23, 2024. EX-2021, 1. EX-2021 is a post-priority-date publication and is therefore irrelevant under F.R.E. 401 and 402 because a document published after the priority date has no tendency to make any fact of consequence more or less probable. Its admission would risk misleading the Board, substantially outweighing any probative value under F.R.E. 403, and the expert's reliance on it fails to satisfy F.R.E. 702 or 703.

**I. EX-2027 (Mestawet et al.)**

Petitioner objects to EX-2027 and any testimony relying thereon in Patent Owner's expert declaration, including ¶70 of EX-2005. EX-2027 appears to have been published on October 4, 2024. EX-2027, 1. EX-2027 is a post-priority-date publication and is therefore irrelevant under F.R.E. 401 and 402 because a document published after the priority date has no tendency to make any fact of consequence more or less probable. Its admission would risk misleading the Board, substantially

outweighing any probative value under F.R.E. 403, and the expert's reliance on it fails to satisfy F.R.E. 702 or 703.

**J. EX-2028 (S. Smith)**

Petitioner objects to EX-2028 and any testimony relying thereon in Patent Owner's expert declaration, including ¶70 of EX-2005. EX-2028 appears to be a master's degree thesis and lacks authentication under F.R.E. 901. Although the cover page of the thesis (EX-2028, 4) contains the year 2016, this bare reference appears without any context and is insufficient to establish a publication or public availability date. Additionally, EX-2028 contains no time stamp or signatures from which its date of publication or public availability can be established. Without any indicia of when EX-2028 was published or made publicly accessible, Patent Owner has not authenticated the document or established that it predates the priority date of the patent at issue.

EX-2028 also contains markings made by Patent Owner on pages 20 through 21, further calling into question the integrity and authenticity of the exhibit as a true and accurate copy of the underlying document. Absent proper authentication, EX-2028 is inadmissible.

Moreover, because Patent Owner has failed to establish the date of EX-2028, it cannot be determined whether EX-2028 reflects the state of the art as of the priority date, rendering it irrelevant under F.R.E. 401 and 402. Its admission would risk

misleading the Board and confusing the issues, substantially outweighing any probative value under F.R.E. 403.

**K. EX-2030 (6<sup>th</sup> Grade Chapter 1 Ratio Relations)**

Petitioner objects to EX-2030 and any testimony relying thereon in Patent Owner's expert declaration, including ¶¶40, 102 of EX-2005. Petitioner objects to EX-2030 under F.R.E. 901 because Patent Owner has failed to provide sufficient evidence to support that EX-2030 is what Patent Owner claims it to be.

Petitioner further objects to EX-2030 under F.R.E. 106 because Patent Owner only purports to provide an excerpt of the document and has not made available a full copy to the Petitioner.

EX-2030 should be irrelevant under F.R.E. 401 and 402 because it is directed to sixth-grade-level elementary school material whose level of analysis is not commensurate with the scientific measurement methodology, including metrology, relevant to the '860 patent. Admission of an incomplete document directed to an inapplicable level of analysis would risk misleading the Board and confusing the issues, substantially outweighing any probative value under F.R.E. 403.

**L. EX-2031 (Harrison et al.)**

Petitioner objects to EX-2031 and any testimony relying thereon in Patent Owner's expert declaration, including ¶¶23, 26, 81, 86, 87 of EX-2005.

Petitioner objects to EX-2031 under F.R.E. 901 because Patent Owner has failed to provide sufficient evidence to support that EX-2031 is what Patent Owner claims it to be.

Petitioner further objects to EX-2031 under F.R.E. 106 because Patent Owner only purports to provide an excerpt of the document and has not made available a full copy to the Petitioner. Admission of an incomplete document would also risk misleading the Board and confusing the issues, substantially outweighing any probative value under F.R.E. 403.

**M. EX-2033 (Protein Stability and Storage)**

Petitioner objects to EX-2033 and any testimony relying thereon in Patent Owner's expert declaration, including ¶110 of EX-2005. EX-2033 lacks authentication under F.R.E. 901. EX-2033 appears to discuss protein only broadly, treating "proteins" as a general, heterogeneous class of biological macromolecules, and does not single out any specific protein relevant to this proceeding. EX-2033, 1. In particular, EX-2033 contains no discussion of the stability of whey protein—let alone any specific discussion on beta-lactoglobulin (BLG)—which is central to the technology at issue. Thus EX-2033 is irrelevant under F.R.E. 401 and 402. Its admission would risk misleading the Board and confusing the issues, substantially outweighing any probative value under F.R.E. 403.

**N. EX-2034 (Bhat et al.)**

Petitioner objects to EX-2034 and any testimony relying thereon in Patent Owner's expert declaration, including ¶¶158-59 of EX-2005.

Petitioner objects to EX-2034 under F.R.E. 901 because Patent Owner has failed to provide sufficient evidence to support that EX-2034 is what Patent Owner claims it to be.

Petitioner further objects to EX-2034 under F.R.E. 106 because Patent Owner only purports to provide an excerpt of the document and has not made available a full copy to the Petitioner. Admission of an incomplete document would also risk misleading the Board and confusing the issues, substantially outweighing any probative value under F.R.E. 403.

**O. EX-2035 (Saha et al.)**

Petitioner objects to EX-2035 and any testimony relying thereon in Patent Owner's expert declaration, including ¶121 of EX-2005. EX-2035 lacks authentication under F.R.E. 901. EX-2035 contains no clear publication date. At best, EX-2035 states only that the document was "revised in January 2023" (EX-2035, 18), which is insufficient to establish when the document was originally published or made publicly available. Without a reliable publication date, Patent Owner has not authenticated the document or established that it predates the priority date of the patent at issue.

EX-2035 is also directed to the field of animal feeding and nutrition (EX-2035, Title), which is non-analogous to the technology at issue in this proceeding. Thus, EX-2035 is irrelevant under F.R.E. 401 and 402. Its admission would risk misleading the Board and confusing the issues, substantially outweighing any probative value under F.R.E. 403.

The foregoing objections are made within 5 business days of service of evidence to which the objection is directed in accordance with 37 C.F.R. § 42.64(b)(1).

Respectfully submitted,

*/ Jessica Kaiser /*

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Date: April 28, 2026

## **CERTIFICATE OF SERVICE**

I hereby certify that on April 28, 2026 true and correct copies of the foregoing PETITIONER’S OBJECTIONS TO PATENT OWNER’S EVIDENCE UNDER 37 C.F.R. § 42.64(b)(1) was served via electronic mail upon the following counsel of record for Patent Owner:

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Respectfully submitted,

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