

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TOPSOE INC.,
Petitioner

v.

CASALE SA,
Patent Owner

Case IPR2025-01454
U.S. Patent No. 11,286,168

PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE
PURSUANT TO 37 CFR § 42.64(b)(1)

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Casale SA submits its objections to Petitioner's evidence filed August 3, 2026.

I. Exhibit 1045 (Declaration of Svend Erik Nielsen)

Patent Owner incorporates by reference its objections to Exhibit 1045 as previously stated in Paper 17 (Patent Owner's Objections to Petitioner's Supplemental Evidence pursuant to 37 CFR § 42.64(b)(1) dated March 17, 2026).

Patent Owner reserves the right to move to exclude Exhibit 1045 or portions of the declaration/testimony based on FRE 401/402 (relevance), FRE 403 (probative value outweighed by prejudice, confusing, waste of time), FRE 602 (lack of personal knowledge) (for example, statements in paragraphs 8-12, 16 and 17), FRE 901 (authentication), FRE 1002 (to the extent Petitioner intends to rely on secondary evidence of publication) and/or 35 U.S.C. § 311(b) and lack of foundation (ineligible prior art because there is no (or insufficient) evidence that the document was sufficiently accessible to the public interested in the art before the critical date). *See, e.g., In re Cronyn*, 890 F.2d 1158, 1160 (Fed. Cir. 1989) (“[T]he reference must have been sufficiently accessible to the public interested in the art; dissemination and public accessibility are the keys to the legal determination whether a prior art reference was published.”); *see also Jazz Pharm., Inc. v. Amneal Pharms., LLC*, 895 F.3d 1347, 1355–56 (Fed. Cir. 2018) (“A reference is considered publicly accessible upon a satisfactory showing that such document has been disseminated or otherwise

made available to the extent that persons interested and ordinarily skilled in the subject matter or art, exercising reasonable diligence, can locate it.” (quotations omitted)); *Blue Calypso, LLC v. Groupon, Inc.*, 815 F.3d 1331, 1348 (Fed. Cir. 2016) (same).

For example, while the declaration (provided by a Topsoe employee-presenter, not an IFA employee) states that the *2007 IFA* slides were provided to the IFA (¶16), it does not indicate what date the *2007 IFA* slides were actually posted online. Though the declarant states that it was IFA’s “practice of posting presentation materials from their technical committee meetings on their publicly accessible website,” the declarant is not (and has never been) an IFA employee and has no foundation for making such statement. Even if credited, the statement still does not confirm when the slides were actually posted online. *See* Paper 33 (Patent Owner Response) at 19.

Further, Patent Owner objects to Exhibit 1045 under FRE 802 (hearsay).

Patent Owner objects to Exhibit 1067 to the extent it violates 37 C.F.R. § 42.23.

Patent Owner further objects to Exhibit 1045 to the extent Petitioner attempts to use any part of the same to supplement, support, or otherwise add to the Petition as filed, the instituted grounds, Petitioner’s reply, Petitioner’s oral argument regarding the instituted grounds, or Dr. Ritter’s declaration previously submitted

with the Petition (EX1005).

II. Exhibit 1067 (Wolden Deposition Exhibit 4)

Patent Owner objects to Exhibit 1067 to the extent any designated testimony (from the deposition of Colin Wolden) is offered for purposes other than impeachment or for purposes inconsistent with the scope permitted under 37 C.F.R. § 42.53 and the Trial Practice Guide, and to the extent any portion is incomplete, taken out of context, or relied upon in a manner that violates Federal Rules of Evidence 106, 401, 402, 403, 602, 701, 702, or 802. Patent Owner reserves the right to counter-designate testimony and to object to specific designations as Petitioner identifies the portions on which it intends to rely.

Patent Owner objects to Exhibit 1067 based on FRE 901 (authentication) and lack of foundation.

Patent Owner objects to Exhibit 1067 to the extent it violates 37 C.F.R. § 42.23.

Patent Owner further objects to Exhibit 1067 to the extent Petitioner attempts to use any part of the same to supplement, support, or otherwise add to the Petition as filed, the instituted grounds, Petitioner's reply, Petitioner's oral argument regarding the instituted grounds, or Dr. Ritter's declaration previously submitted with the Petition (EX1005).

III. Exhibit 1068 (Reply Declaration of Dr. James A. Ritter)

Patent Owner has not yet cross-examined Dr. Ritter regarding this declaration but intends to do so. Trial Practice Guide at 73 (“If a party submits a new expert declaration with its reply, the opposing party may cross-examine the expert, move to exclude the declaration, and comment on the declaration and cross-examination in any sur-reply.”).

Patent Owner objects to Exhibit 1068 generally, and specifically objects to Paragraph 2 of Exhibit 1068 (“I have been asked to respond to ... Patent Owner’s characterizations of my April 30, 2026 deposition testimony (EX2008)”), to the extent Dr. Ritter contradicts or attempts to change his testimony from his under-oath deposition testimony on April 30, 2026.

Patent Owner further objects to Dr. Ritter’s characterizations regarding the questions asked and his answers to the same (see, for example, Paragraph 14, Paragraph 39, Paragraph 40, Paragraph 41) during his April 30, 2026, deposition based on FRE 401/402 (relevance), FRE 403 (probative value outweighed by prejudice, confusing, waste of time), FRE 602 (lack of personal knowledge), and/or FRE 702/703 (insufficient support for expert testimony). The deposition transcript speaks for itself. Patent Owner further objects to the extent Petitioner could have, but chose not to, question Dr. Ritter following Patent Owner’s cross examination at the deposition, which would have allowed (but did not allow) Patent Owner to cross

examine Dr. Ritter regarding the same.

Patent Owner objects to Exhibit 1068 generally to the extent it contradicts, or is inconsistent with, statements in Dr. Ritter's previously submitted declaration (EX1005).

Patent Owner objects to Exhibit 1068 to the extent it violates 37 C.F.R. § 42.23.

Patent Owner specifically objects to Paragraphs 6-10 of Exhibit 1068 under FRE 602 (lack of personal knowledge), lack of foundation, and/or FRE 702/703 (insufficient support for expert testimony).

Patent Owner further objects to Exhibit 1068 to the extent Petitioner attempts to use any part of the same to supplement, support, or otherwise add to the Petition as filed, the instituted grounds, Petitioner's reply, Petitioner's oral argument regarding the instituted grounds, or Dr. Ritter's declaration previously submitted with the Petition (EX1005).

Patent Owner reserves the right to move to exclude Exhibit 1068 or portions of the declaration/testimony based on FRE 401/402 (relevance), FRE 403 (probative value outweighed by prejudice, confusing, waste of time), FRE 602 (lack of personal knowledge), and/or FRE 702/703 (insufficient support for expert testimony).

Patent Owner objects to Exhibit 1068 under FRE 802 (hearsay), to the extent that Patent Owner does not have the opportunity to cross-examine Dr. Ritter

regarding this declaration.

Respectfully submitted on August 10, 2026 by:

/Case Collard/

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e)(4), the undersigned certifies that on August 10, 2026, a complete and entire copy of this Patent Owner's Objections to Petitioner's Evidence Pursuant to 37 CFR § 42.64(b)(1) was served on the Petitioner via electronic mail at the following addresses:

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