

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HUHTAMAKI FLEXIBLE PACKAGING GERMANY GMBH & CO. KG,
Petitioner,

v.

ADAPA FLEXIBLES DENMARK SLAGELSE A/S,
f/k/a DANAPAK FLEXIBLES A/S
Patent Owner

Case PGR2023-00008
Patent 11,260,624

**PETITIONER’S OBJECTIONS TO PATENT OWNER’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), Petitioner Huhtamaki (“Petitioner”) submits the following objections to Patent Owner’s Reply to Petitioner’s Opposition to Patent Owner’s Revised Motion to Amend filed March 26, 2024. (See Paper 41)

Exhibit	Description
2019	U.S. Patent No. 11,504,954 Declaration of Huhtamaki Inventor Manuella Herb dated 12 August 2021

Petitioner timely objects under 37 C.F.R. § 42.64(b)(1) within the allowed five business days of the service of evidence filed with the Patent Owner’s Reply to Petitioner’s Opposition to Patent Owner’s Revised Motion to Amend filed March 26, 2024. Petitioner files and serves Patent Owner with these objections to provide notice that Petitioner may move to exclude Exhibit 2019 under 37 C.F.R. § 42.64(c).

I. Grounds for Objections

Petitioner objects to Exhibit 2019 and any reference to/reliance thereon under 37 C.F.R. § 42.65(a) and/or (b) for including statements based on insufficient facts or data, and/or failing to provide an affidavit attesting to such. *See, e.g.*, EX2019, ¶10. Petitioner further objects to Exhibit 2019 under F.R.E. 702 and 703 because Exhibit 2019 includes testimony from a witness that fails to provide sufficient facts or data, is not relevant, is not based on reliable foundation, and/or constitutes conclusory opinions without sufficient support. This exhibit is

also hearsay and does not fall within any exception to the rule against hearsay .

FRE 801-804, 807. Exhibit 2019 is irrelevant because Petitioner's arguments in a different proceeding are not probative of facts in this proceeding based on different patents and different prior art. FRE 401-402. To the extent Exhibit 2019 is deemed relevant, its admission would be unduly prejudicial, misleading, and an improper use of the Board's resources because the exhibit does not support the proposition for which it is cited, and the other proceeding has a substantially different record. FRE 403.

II. Conclusion

To the extent Patent Owner fails to correct the defects associated with Exhibit 2019 in view of Petitioners' objections herein, Petitioners may file one or more motions to exclude Exhibit 2019 under 37 C.F.R. § 42.64(c).

Respectfully submitted,

Dated: March 27, 2024

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CERTIFICATION OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above-captioned **PETITIONERS' OBJECTIONS TO PATENT OWNER'S EVIDENCE PURSUANT TO 37 C.F.R. § 42.64(B)(1)** was served electronically via e-mail in its entirety on March 27, 2024, upon the following parties:

Steven A. Avena (Lead Counsel)
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Dated: March 27, 2024

By: /s/ Ryan Levy
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