

DOCKET NO: 418599US

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CARL ZEISS SMT GMBH
Petitioner

v.

NIKON CORPORATION
Patent Owner

Case IPR2013-00362

Patent 7,348,575

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

These objections are made pursuant to 37 C.F.R. § 42.64 within 5 business days from the May 28, 2014 service date of Petitioner's Reply to Patent Owner's Response.

The Patent Owner objects to the admissibility of Exhibits 1036 and 1038 through 1049 included in Petitioner's Reply to Patent Owner's Response as noted below.

1. Exhibit 1036

Patent Owner objects to Exhibit 1036 (May 25, 2014 Declaration of Mr. Richard Juergens) on the following grounds:

a. The evidence is not relevant because, among other things, it relies on computer software that was not available at the time of the patented invention.

b. Exhibit 1036 consists of statements that are hearsay and are based on hearsay.

c. The computer software purportedly used by Mr. Juergens lacks a proper foundation as to its authenticity and source.

d. The testing and the test results reflected in Exhibit 1036 are not reliable, and experts would not reasonably rely upon such testing and test results to form an opinion on the issue of obviousness or enablement.

2. Exhibit 1038

Patent Owner objects to Exhibit 1038 (Code V Sequence cited in ZEISS 1036) on the following grounds:

a. The evidence is not relevant because, among other things, it was generated with computer software that was not available at the time of the patented invention.

b. Exhibit 1038 consists of statements that are hearsay and are based on hearsay.

c. The computer software used to generate Exhibit 1038 lacks a proper foundation as to its authenticity and source.

d. The data reflected in Exhibit 1038 are not reliable, and experts would not reasonably rely upon such data to form an opinion on the issue of obviousness or enablement.

3. Exhibit 1039

The Patent Owner objects to Exhibit 1039 (Code V Sequence cited in ZEISS 1036) on the following grounds:

a. The evidence is not relevant because, among other things, it was generated with computer software that was not available at the time of the patented invention.

b. Exhibit 1039 consists of statements that are hearsay and are based on hearsay.

c. The computer software used to generate Exhibit 1039 lacks a proper foundation as to its authenticity and source.

d. The data reflected in Exhibit 1039 are not reliable, and experts would not reasonably rely upon such data to form an opinion on the issue of obviousness or enablement.

4. Exhibit 1040

The Patent Owner objects to Exhibit 1040 (Code V Sequence cited in ZEISS 1036) on the following grounds:

a. The evidence is not relevant because, among other things, it was generated with computer software that was not available at the time of the patented invention.

b. Exhibit 1040 consists of statements that are hearsay and are based on hearsay.

c. The computer software used to generate Exhibit 1040 lacks a proper foundation as to its authenticity and source.

d. The data reflected in Exhibit 1040 are not reliable, and experts would not reasonably rely upon such data to form an opinion on the issue of obviousness or enablement.

5. Exhibit 1041

The Patent Owner objects to Exhibit 1041 (Code V Sequence cited in ZEISS 1036) on the following grounds:

a. The evidence is not relevant because, among other things, it was generated with computer software that was not available at the time of the patented invention.

b. Exhibit 1041 consists of statements that are hearsay and are based on hearsay.

c. The computer software used to generate Exhibit 1041 lacks a proper foundation as to its authenticity and source.

d. The data reflected in Exhibit 1041 are not reliable, and experts would not reasonably rely upon such data to form an opinion on the issue of obviousness or enablement.

6. Exhibit 1042

The Patent Owner objects to Exhibit 1042 (Code V Sequence cited in ZEISS 1036) on the following grounds:

a. The evidence is not relevant because, among other things, it was generated with computer software that was not available at the time of the patented invention.

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