

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CONOPCO, INC. d/b/a UNILEVER
Petitioner

v.

THE PROCTER & GAMBLE COMPANY
Patent Owner

Case IPR2013-00509
Patent 6,451,300

**PATENT OWNER'S OBJECTIONS TO
EVIDENCE PURSUANT TO 37 C.F.R. § 42.64**

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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), the undersigned, on behalf of Patent Owner, The Procter & Gamble Company (“P&G” or “Patent Owner”), hereby submits the following objections to Exhibits 1034, 1036, 1037, 1040, 1045-1047, 1051-1055, and 1060-1061, attached to Conopco, Inc. d/b/a Unilever’s (“Unilever” or “Petitioner”) Reply to Patent Owner’s Response (“Reply”). See IPR2013-00509, Paper 45 (and exhibits thereto). Pursuant to 37 C.F.R. § 42.62, Patent Owner’s objections below apply the Federal Rules of Evidence (“F.R.E.”).

I. OBJECTIONS TO EXHIBIT 1034

Patent Owner hereby objects to Exhibit 1034, “Second Declaration of Arun Nandagiri.” Grounds for objection: F.R.E. 402 (Relevance), F.R.E. 403 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons), F.R.E. 602 (Lack of Personal Knowledge), F.R.E. 702 and F.R.E. 703 (insufficient support for expert testimony), F.R.E. 801 and F.R.E. 802 (Impermissible Hearsay), 37 C.F.R. § 42.23(b) (Outside Scope of Response and Petition), *Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,756, 48767, I. (Aug. 14, 2012) (Raises New Issue or Belatedly Presents Evidence), 37 C.F.R. § 42.6(a)(3) (Impermissible Incorporation by Reference), and F.R.E. 901 (Authentication).

II. OBJECTIONS TO EXHIBITS 1036, 1037

Patent Owner hereby objects to Exhibit 1036, “Lochhead Deposition Transcript (non-public)” and Exhibit 1037, “Lochhead Deposition Transcript (public – redacted).” Grounds for objection: F.R.E. 402 (Relevance), F.R.E. 403 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons), and 37 C.F.R. § 42.23(b) (Outside Scope of Response and Petition).

III. OBJECTIONS TO EXHIBIT 1040

Patent Owner hereby objects to Exhibit 1040, “Lochhead, R.Y., “Research Report – Formulation of an Antidandruff Shampoo with Improved Hair Conditioning Attributes,” Isleworth Laboratory, Unilever Research (October 1979).” Grounds for objection: F.R.E. 106 (Remainder of or Related Writings), F.R.E. 402 (Relevance), F.R.E. 403 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons), F.R.E. 801 and F.R.E. 802 (Impermissible Hearsay), and F.R.E. 901 (Authentication).

IV. OBJECTIONS TO EXHIBIT 1045

Patent Owner hereby objects to Exhibit 1045, “Johnson, D.H. (ed.), “Hair and Hair Care,” pp. 65-104 (1997).” Grounds for objection: F.R.E. 402 (Relevance), F.R.E. 403 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons), F.R.E. 801 and F.R.E. 802 (Impermissible Hearsay), F.R.E. 901 (Authentication), 37 C.F.R. § 42.6(a)(3) (Impermissible

Incorporation by Reference), 37 C.F.R. § 42.23(b) (Outside Scope of Response and Petition), and *Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,756, 48767, I. (Aug. 14, 2012) (Raises New Issue or Belatedly Presents Evidence).

V. OBJECTIONS TO EXHIBIT 1046

Patent Owner hereby objects to Exhibit 1046, “Parran, J.J., “Deposition on the Skin of Particles of Antimicrobial Agents from Detergent Bases,” *The Journal of Investigative Dermatology*, vol. 45, no. 2, pp. 86-88 (1965).” Grounds for objection: F.R.E. 402 (Relevance), F.R.E. 403 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons), F.R.E. 801 and F.R.E. 802 (Impermissible Hearsay), F.R.E. 901 (Authentication), 37 C.F.R. § 42.6(a)(3) (Impermissible Incorporation by Reference), 37 C.F.R. § 42.23(b) (Outside Scope of Response and Petition), and *Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,756, 48767, I. (Aug. 14, 2012) (Raises New Issue or Belatedly Presents Evidence).

VI. OBJECTIONS TO EXHIBIT 1047

Patent Owner hereby objects to Exhibit 1047, “Sorkin, M., et al., “The Practical Evaluation of Shampoos,” *J. Soc. Cosmetic Chemists*, 17, pp. 539-551 (1966).” Grounds for objection: F.R.E. 402 (Relevance), F.R.E. 403 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons), F.R.E. 801 and F.R.E. 802 (Impermissible Hearsay), F.R.E. 901 (Authentication),

37 C.F.R. § 42.6(a)(3) (Impermissible Incorporation by Reference), 37 C.F.R. § 42.23(b) (Outside Scope of Response and Petition), and *Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,756, 48767, I. (Aug. 14, 2012) (Raises New Issue or Belatedly Presents Evidence).

VII. OBJECTIONS TO EXHIBIT 1051

Patent Owner hereby objects to Exhibit 1051, “Freedberg, I.M., et al.(eds.), “Fitzpatrick’s Dermatology in General Medicine,” vol. 1, Sixth Ed., pp. 1180-1194 (2003).” Grounds for objection: F.R.E. 402 (Relevance), F.R.E. 403 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons), F.R.E. 801 and F.R.E. 802 (Impermissible Hearsay), F.R.E. 901 (Authentication), and 37 C.F.R. § 42.6(a)(3) (Impermissible Incorporation by Reference).

VIII. OBJECTIONS TO EXHIBIT 1052

Patent Owner hereby objects to Exhibit 1052, “Lochhead, R.Y., “Recent Trends in Hair Care Polymers,” Household and Personal Products Industry, vol. 43, no. 11, pp. 83-87 (November 2006).” Grounds for objection: F.R.E. 402 (Relevance), F.R.E. 403 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons), F.R.E. 801 and F.R.E. 802 (Impermissible Hearsay), F.R.E. 901 (Authentication), and 37 C.F.R. § 42.6(a)(3) (Impermissible Incorporation by Reference).

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