

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NORMAN INTERNATIONAL, INC.
Petitioner

v.

HUNTER DOUGLAS INC.
Patent Owner

CASE IPR2014-01175
Patent No. 6,968,884

Before LINDA M. GAUDETTE, JAMES P. CALVE, and
HYUN J. JUNG, *Administrative Patent Judges*

**PETITIONER'S MOTION TO EXCLUDE EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64(c)**

September 14, 2015

TABLE OF CONTENTS

	Page
I. OVERVIEW OF THE MOTION	1
II. EXHIBIT 2001 SHOULD BE EXCLUDED FOR FAILURE TO MEET THE REQUIREMENTS OF FRE 702	1
A. Mr. Corey Is Not Qualified As An Expert	2
B. Mr. Corey Cannot Provide an Unbiased Opinion	4
III. CONCLUSION.....	5

EXHIBIT LIST

Norman Exhibit #	Brief Description
1001	U.S. Patent No. 6,968,884 B2 ("the 884 Patent")
1002	Japanese Patent Application Publication S54-38648 ("Tachikawa") Pages 1-4: English Translation Pages 5-8: Original Japanese Publication Page 9: Translator Certification
1003	U.S. Patent No. 3,327,765 ("Strahm")
1004	Great Britain Patent No. 1,174,127 ("Skidmore")
1005	U.S. Patent No. 1,870,532 ("Schuetz")
1006	U.S. Patent No. 2,390,826 ("Cohn")
1007	U.S. Patent No. 6,056,036 ("Todd")
1008	U.S. Patent No. 6,293,329 ("Toti")
1009	Declaration of Lawrence E. Carlson in Support of Petition for Inter Partes Review of U.S. Patent No. 6,968,884B2 ("Carlson Declaration on 884 Patent")

Norman Exhibit #	Brief Description
1010	Declaration of Patrick E. Foley in Support of Petition for Inter Partes Review of U.S. Patent No. 6,968,884B2 ("Foley Declaration on 884 Patent")
1011	Proof Of Service on July 16, 2013 of Summons in Civil Action No. 1:13-cv-01412-MSK-MJW (D. COLO.) ("Proof of Service")
1012	Declaration Of Sara Hare ("Hare Declaration")
1013	Declaration of Lawrence E. Carlson in Support of Petitioner's Reply to Patent Owner's Response of May 4, 2015
1014	Petitioner's Objections to Patent Owner's Evidence Submitted After Institution of a Trial under 37 C.F.R. § 42.64(b)(1) as served on Patent Owner on May 11, 2015

I. OVERVIEW OF THE MOTION

Pursuant to 37 C.F.R. § 42.64(c) and the Scheduling Order of February 10, 2015 (Paper 8), Petitioner moves to exclude Exhibit 2001 as inadmissible. In the alternative, Petitioner requests that the Board give no weight to this exhibit for at least the reasons stated herein. In particular, Petitioner moves to exclude Exhibit 2001 (“Declaration of John A. Corey”) as inadmissible under Federal Rule of Evidence (“FRE”) 702.

Prior to this motion, Petitioner timely objected to Exhibit 2001 on May 11, 2015, within five business days of service of the evidence presented with the Patent Owner's Response (Paper 9), which was filed on May 4, 2015. (*See* Exhibit 1014; 37 C.F.R. § 42.64(b)(1).) An updated exhibit list is concurrently filed herewith.

II. EXHIBIT 2001 SHOULD BE EXCLUDED FOR FAILURE TO MEET THE REQUIREMENTS OF FRE 702

Exhibit 2001 should be excluded under FRE 702. First, Exhibit 2001 is inadmissible under FRE 702 because Patent Owner has not qualified Mr. Corey as an expert in the relevant field of art of the '884 patent. In addition, Mr. Corey's testimony is unreliable and biased in view of Mr. Corey's longstanding employment with Comfortex Window Fashions, a subsidiary of Patent Owner Hunter Douglas Inc. In the alternative, the Board should give no weight, or diminished weight, to Exhibit 2001.

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