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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PRAXAIR DISTRIBUTION, INC.
Petitioner

v.

INO THERAPEUTICS LLC,
Patent Owner

Case IPR2015-00529
U.S. Patent No. 8,846,112

Before LORA M. GREEN, TINA E. HULSE, and
ROBERT A. POLLOCK *Administrative Patent Judges.*

**PETITIONER PRAXAIR DISTRIBUTION INC.'S OBJECTIONS TO
PATENT OWNER INO THERAPEUTICS, LLC'S EVIDENCE**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner Praxair Distribution, Inc. (“Praxair”) hereby submits the following objections to the evidence Patent Owner INO Therapeutics, LLC (“Ikaria”) filed with its Patent Owner Response dated November 5, 2015.

Exhibit 2024

Exhibit 2024 purports to be a copy of the prosecution history of abandoned U.S. Patent Application No. 12/820,886. Praxair objects to the following pages of Ex. 2024:

Ex. 2024 at pp. 348-539

Ex. 2024 at pp. 665-687

Ex. 2024 at pp. 803-877

Ex. 2024 at pp. 903-945

Ex. 2024 at pp. 1075-1096

Ex. 2024 at pp. 1098-1140

Ex. 2024 at pp. 1142-1165

Ex. 2024 at pp. 1167-1174

Ex. 2024 at pp. 1176-1186

Praxair objects to these pages of Ex. 2024 because they are declarations and supporting materials submitted during patent examination that Ikaria is relying on as evidence in this proceeding in violation of 37 C.F.R. § 42.53(a), which states

that “[u]ncompelled direct testimony must be submitted in the form of an affidavit.” These portions of Ex. 2024 also lack foundation (FRE 602) and authentication (FRE 901) and constitute impermissible hearsay (FRE 901).

Exhibit 2029

Exhibit 2029 is a publication by Michael R. Zile et al. titled “New Concepts in Diastolic Dysfunction and Diastolic Heart Failure: Part I - Diagnosis, Prognosis, and Measurements of Diastolic Function. Praxair objects to Ex. 2029 because it does not appear that Ikaria relies on this document in its Patent Owner response, nor does it appear that Ikaria’s expert witness, Dr. Geoffrey L. Rosenthal, relies on this document in his declaration (Ex. 2020).

The Patent Trial and Appeal Board is hereby authorized to charge any fees owed by Petitioner and associated with this case to Deposit Account 02-1818.

Respectfully submitted by

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Certification of Service Under 37 C.F.R. § 42.6(e)(4)

A copy of the foregoing has been served to counsel of record for the Patent Owner at the following electronic mail addresses pursuant to the Patent Owner's authorization of electronic service on this 13th day of November, 2015

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