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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 d/b/a IKARIA, INC.
Patent Owner

Case No. IPR2015-00889
Patent 8,573,209

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

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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 December 9, 2015.

Exhibit 2019

Exhibit 2019 purports to be a photograph of a device purportedly attributable to Praxair called the NOMIX Delivery System. Praxair objects to this Exhibit because it lacks foundation (FRE 602), relevance (FRE 402), and authentication (FRE 901) and constitutes inadmissible hearsay (FRE 802). Praxair also objects to Exhibit 2019 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, Mr. Warren Heim, relies on this document in his declaration (Ex. 2021).

Exhibit 2023

Exhibit 2023 purports to be an article titled “Bedfont Scientific Introduces State of the Art Intelligent INO Delivery & Monitoring System, BIOSPACE” (Sept. 10, 2012, 10:56 AM), <http://www.biospace.com/News/bedfont-scientific-introducesstate-of-the-art/272542>. Praxair objects to Exhibit 2023 because it lacks foundation (FRE 602), relevance (FRE 402), and authentication (FRE 901) and constitutes inadmissible hearsay (FRE 802). Praxair also objects to Exhibit 2023 because it does not appear that Ikaria relies on this document in its Patent Owner

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Response, nor does it appear that Ikaria's expert witness, Mr. Warren Heim, relies on this document in his declaration (Ex. 2021).

Exhibit 2024

Exhibit 2024 purports to be a Technical Guide for the Bedfont NOxBox & NOxMixer devices. Praxair objects to this Exhibit because it lacks foundation (FRE 602), relevance (FRE 402), and authentication (FRE 901) and constitutes inadmissible hearsay (FRE 802).

Exhibit 2025

Exhibit 2025 purports to be letter from Praxair Technology, Inc. to Ikaria, Inc., dated November 25, 2009. Praxair objects to this Exhibit because it lacks foundation (FRE 602), relevance (FRE 402), and authentication (FRE 901) and constitutes inadmissible hearsay (FRE 802).

Exhibit 2026

Exhibit 2026 purports to be a certified English-language translation of a brochure for a product called NOMIX. Praxair objects to this Exhibit because it lacks foundation (FRE 602), relevance (FRE 402), and authentication (FRE 901) and constitutes inadmissible hearsay (FRE 802).

Exhibit 2027

Exhibit 2027 purports to be an operating manual for a device called CareFusion PrinterNOx. Praxair objects to this Exhibit because it lacks foundation

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(FRE 602), relevance (FRE 402), and authentication (FRE 901) and constitutes inadmissible hearsay (FRE 802).

Exhibit 2036

Exhibit 2036 purports to be a website printout for a product referred to as “Maxim Integrated iButton Products: 1-Wire Adapters.” Praxair objects to this Exhibit because it lacks foundation (FRE 602), relevance (FRE 402), and authentication (FRE 901) and constitutes inadmissible hearsay (FRE 802).

Exhibit 2037

Exhibit 2037 purports to be a website printout for a product referred to as “Maxim Integrated Memory Products: iButton 64Kb Memory (DS1996).” Praxair objects to this Exhibit because it lacks foundation (FRE 602), relevance (FRE 402), and authentication (FRE 901) and constitutes inadmissible hearsay (FRE 802).

Exhibit 2039

Exhibit 2039 purports to be a printout of a website showing the alleged content of the MAUDE database. Praxair objects to this Exhibit because it lacks foundation (FRE 602), relevance (FRE 402), and authentication (FRE 901) and constitutes inadmissible hearsay (FRE 802).

Exhibit 2040

Exhibit 2040 purports to be a document titled “The 510(k) Paradigm:

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Evaluating Substantial Equivalence in Premarket Notifications [510(k)], Guidance for Industry and Food and Drug Administration Staff,” and contains an alleged “Document issued” date of July 28, 2014. Praxair objects to this Exhibit because it lacks foundation (FRE 602), relevance (FRE 402), and authentication (FRE 901) and constitutes inadmissible hearsay (FRE 802).

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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