

Filed on behalf of Nidec Motor Corporation

IPR2015-01039

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LINDSAY CORPORATION
Petitioner

v.

VALMONT INDUSTRIES, INC.
Patent Owner

Case No. IPR2015-01039
U.S. Patent No. 7,003,357

**PETITIONER'S NOTICE OF OBJECTIONS
TO PATENT OWNER'S EVIDENCE**

Pursuant to 37 C.F.R. § 42.64(b)(1), Lindsay Corporation (“Lindsay”) submits its notice of objections to Valmont’s Response to Petition and Exhibits 2006-2012, 2014-2015 submitted by Patent Owner Valmont Industries, Inc. (“Valmont”) in connection with IPR2015-01039, within five business days following Valmont’s filing of its Response to Petition (Paper No. 15). The bases for the objections are as follows:

Valmont’s Response to Petition and Mercer Declaration

Lindsay objects to all statements in Valmont’s Response to Petition and the Mercer Declaration (Ex. 2006) referring to information or testimony from any of the Exhibits objected to below, for the reasons set forth below with respect to that exhibit.

Exhibit 2006

Lindsay objects to Exhibit 2006, which Valmont describes as “Professor Melvin Ray Mercer’s Declaration,” because it is not helpful, lacks foundation, constitutes unsupported, conclusory expert opinion that fails to meet the fundamental requirements of expert testimony, and contains numerous analytical gaps. FED. R. EVID. 702, 703; *Daubert v. Merrel Dow Pharms*, 509 U.S. 579 (1993); *General Electric v. Joiner*, 522 U.S. 136 (1997); *Kumho Tire Co. v.*

Carmichael, 526 U.S. 137 (1999); 37 C.F.R. § 42.65(a). The testimony in Exhibit 2006 is littered with inadmissible conclusory, unsupported, *ipse dixit* statements for which Mr. Mercer fails to identify documentary evidence that experts in the field would reasonably rely upon in rendering an opinion. (*see, e.g.*, ¶¶ 10, 12, 29, 31-35, 37, 39, 47, 52, 56, 57-68, 70-71, 73-74, 77-78). Moreover, Mr. Mercer’s testimony on United States patent law (*see e.g.*, ¶¶ 23-28) is inadmissible. 37 C.F.R. § 42.65(a). Lindsay also objects because Mr. Mercer’s testimony contains inadmissible hearsay statements (*see* ¶¶ 23-25, 27-28, 39, 57). FED. R. EVID. 801, 802.

Exhibit 2007

Lindsay stands on the objections of its counsel lodged in Exhibit 2007, which Valmont describes as “Deposition Transcript of Dr. Rosenberg.”

Exhibit 2008

Lindsay objects to Exhibit 2008, which Valmont describes as “OneStat Website Statistics and website metrics Press Room (July 24, 2002),” as it is irrelevant and prejudicial, FED. R. EVID. 401-403, has not been authenticated, FED. R. EVID. 901, 902, and contains inadmissible hearsay statements, including dates, statements of purported fact, and data reported thereon. FED. R. EVID. 801, 802.

Moreover, the data reported in Exhibit 2008 is inadmissible under 37 C.F.R.

§ 42.65(b) because the requisite information regarding the collection, analysis, and reporting of the data is not provided.

Exhibit 2009

Lindsay objects to Exhibit 2009, which Valmont describes as “Kyocera QCP 6035 Specs (Feb. 29, 2008),” as it is irrelevant and prejudicial, FED. R. EVID. 401-403, has not been authenticated, FED. R. EVID. 901, 902, and contains inadmissible hearsay statements, including dates, statements of purported fact, and data reported thereon. FED. R. EVID. 801, 802.

Exhibit 2010

Lindsay objects to Exhibit 2010, which Valmont describes as “Laptop Vs. PDA, eHow article, by David Sandoval,” as it is irrelevant and prejudicial, FED. R. EVID. 401-403, has not been authenticated, FED. R. EVID. 901, 902, and contains inadmissible hearsay statements, including dates, statements of purported fact, and data reported thereon. FED. R. EVID. 801, 802. Lindsay further objects to Exhibit 2010 because is not helpful, fails to explain the qualifications for individual who is opining therein, constitutes unsupported, conclusory expert opinion that fails to meet the fundamental requirements of expert testimony, and contains numerous

analytical gaps. FED. R. EVID. 702, 703; *Daubert v. Merrel Dow Pharms*, 509 U.S. 579 (1993); *General Electric v. Joiner*, 522 U.S. 136 (1997); *Kumho Tire Co. v. Carmichael*, 526 U.S. 137 (1999). Lindsay further objects to Exhibit 2014 because it is unsworn testimony. 37 CFR § 42.2, 42.63.

Exhibit 2011

Lindsay objects to Exhibit 2011, which Valmont describes as “HP iPAQ 2210/2215 Pocket PC 2003 PDA, Mobile Tech Review by Lisa Gade (June 19, 2003),” as it is irrelevant and prejudicial, FED. R. EVID. 401-403, has not been authenticated, FED. R. EVID. 901, 902, and contains inadmissible hearsay statements, including dates, statements of purported fact, and data reported thereon. FED. R. EVID. 801, 802. Lindsay further objects to Exhibit 2011 because is not helpful, fails to explain the qualifications for individual who is opining therein, constitutes unsupported, conclusory expert opinion that fails to meet the fundamental requirements of expert testimony, and contains numerous analytical gaps. FED. R. EVID. 702, 703; *Daubert v. Merrel Dow Pharms*, 509 U.S. 579 (1993); *General Electric v. Joiner*, 522 U.S. 136 (1997); *Kumho Tire Co. v. Carmichael*, 526 U.S. 137 (1999). Moreover, the tests and data reported in Exhibit 2011 is inadmissible under 37 C.F.R. § 42.65(b) because the requisite information regarding the collection, analysis, and reporting of the testing and data is not

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