

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

**PATENT OWNER VALMONT INDUSTRIES, INC.'S NOTICE OF
OBJECTIONS TO PETITIONER'S EVIDENCE**

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Valmont Industries, Inc. (“Valmont”) hereby submits its notice of objections to Exhibits 1009-1012 submitted by Petitioner, Lindsay Corporation (“Lindsay”) in connection with IPR2015-01039, within ten business days following institution of the trial. The bases for the objections are as follows:

The Petition and Rosenberg Declaration

Patent Owner objects to all statements in the Petition and the Rosenberg Declaration (Exhibit 1009) 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 1009

Patent Owner objects to Exhibit 1009 (Declaration of Craig Rosenberg) on several grounds:

Mr. Rosenberg fails to disclose sufficient underlying facts or data or cite proper documentary evidence, that experts in the field would reasonably rely on, supporting his conclusory statement that a “hand-held” device includes a laptop. *See, e.g.*, Rosenberg Declaration, ¶¶ 13, 14, 43, and 46. FRE 702, 703 and 37 C.F.R. Section 42.65(a).

Patent Owner objects to numerous statements made by Mr. Rosenberg about the beliefs and understandings of a person of ordinary skill in the art (POSITA)—without laying a foundation or otherwise demonstrating personal knowledge. *See, e.g.,* Rosenberg Declaration, ¶¶ 56, 61, 65, and 70-75. FRE 602, 707, 703. Patent Owner objects to these statements in that they are lacking in foundation and unsupported by sufficient facts, documents or data. The resulting conclusory statements are unsupported by documentary evidence and unhelpful in assisting the Board to understand the evidence or determine a fact at issue. FRE 602, 702, 703

Patent Owner objects to paragraphs 15-29, 63, 64, and 75 of Exhibit 1009 because Petitioner does not refer to those paragraphs in the Petition.

Patent Owner reserves its right to further challenge Mr. Rosenberg's testimony based on information obtained through a deposition of Mr. Rosenberg.

The following chart lists supplemental objections to specific paragraphs in Exhibit 1009 and the corresponding grounds for the objections.

Objections to Paragraphs in Exhibit 1009	
Paragraph 13	Lack of foundation and failure to cite documentary evidence supporting expert testimony, that experts in the field would reasonably rely on, as to the expert's conclusory statements that " <i>a handheld computer such as</i> a smartphone, PDA, <i>laptop</i> , or tablet" (emphasis added). FRE 702, 703 and 37 C.F.R. Section 42.65(a). The expert's testimony will not help the Board understand the evidence or to determine a fact in issue. FRE 702(a).

Paragraph 14	Lack of foundation and failure to cite documentary evidence supporting expert testimony, that experts in the field would reasonably rely on, as to the expert's conclusory statements that "a variety of <i>handheld devices including laptops</i> , PCs, smartphones, and tablets" (emphasis added). FRE 702, 703 and 37 C.F.R. Section 42.65(a). The expert's testimony will not help the Board understand the evidence or to determine a fact in issue. FRE 702(a).
Paragraphs 20 and 22	Lack of foundation and failure to cite documentary evidence supporting expert testimony, that experts in the field would reasonably rely on, as to the expert's statements about the '367 Patent. FRE 702, 703 and 37 C.F.R. Section 42.65(a).
Paragraph 28	Lack of foundation and failure to cite documentary evidence supporting expert testimony, that experts in the field would reasonably rely on, as to the expert's statements that "data and alarms from irrigation devices can be delivered to a remote computer through radio transmission or to pagers through paging telemetry" and why "having a paging system at each pivot to receive command signals from a remote phone to control activities at the pivot was also known at the time of the invention." FRE 702, 703 and 37 C.F.R. Section 42.65(a).
Paragraph 31	Lack of foundation and failure to cite documentary evidence supporting expert testimony, that experts in the field would reasonably rely on, as to the expert's statements about the Scott reference. FRE 702, 703 and 37 C.F.R. Section 42.65(a).
Paragraph 34	Lack of foundation and failure to cite documentary evidence supporting expert testimony, that experts in the field would reasonably rely on, as to the expert's statements about the Pyotsia patent. FRE 702, 703 and 37 C.F.R. Section 42.65(a).
Paragraphs 35	Lack of foundation and failure to cite documentary evidence

and 36	supporting expert testimony, that experts in the field would reasonably rely on, as to the expert's statements about the Abts patent. FRE 702, 703 and 37 C.F.R. Section 42.65(a).
Paragraph 38	Last sentence. Lack of foundation and failure to cite documentary evidence supporting expert testimony, that experts in the field would reasonably rely on, as to the expert's statements about the AIMS article. FRE 702, 703 and 37 C.F.R. Section 42.65(a).
Paragraphs 40 and 42	Lack of foundation and failure to cite documentary evidence supporting expert testimony, that experts in the field would reasonably rely on, as to the expert's statements about the Walker reference. FRE 702, 703 and 37 C.F.R. Section 42.65(a).
Paragraph 43	Lack of foundation and failure to cite documentary evidence supporting expert testimony, that experts in the field would reasonably rely on, as to why the expert agrees with Petitioner's proposed claim constructions and identification of structure disclosed for performing the claimed functions of the "means plus function" elements of the claims. FRE 702, 703 and 37 C.F.R. Section 42.65(a). The expert's testimony will not help the Board understand the evidence or to determine a fact in issue. FRE 702(a).
Paragraph 46	The expert's scientific, technical, or other specialized knowledge does not help the Board to understand the evidence or to determine a fact in issue and the expert's testimony that "a laptop computer is a type of handheld display that is 'small enough to be used or operated while being held in the hand or hands,' as defined by Dictionary.com. Given all of the above, a laptop is a 'hand-held display' is based on improper facts or data, that experts in the field would reasonably rely on, and is not a product of reliable principles and methods. FRE 702(a)-(c), 703 and 37 C.F.R. Section 42.65.

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