

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JOHNSON MATTHEY INC., and JOHNSON MATTHEY PLC,
Petitioner,

v.

BASF CORPORATION,
Patent Owner.

Case IPR2015-01266
Patent Number: 9,039,982

**PATENT OWNER'S OBJECTIONS TO ADMISSIBILITY OF EVIDENCE
SERVED WITH PETITIONER JOHNSON MATTHEY INC. & JOHNSON
MATTHEY PLC'S PETITION FOR *INTER PARTES* REVIEW**

Pursuant to 37 C.F.R § 42.64(b), Patent Owner BASF Corporation, hereby objects as follows to the admissibility of evidence with Petitioner

Evidence	Objections
Exhibit 1003	<p>FRE 701/702/703: Paragraphs 18-30, 36-44 include opinions that are not admissible under FRE 701, 702, or 703, or <i>Daubert v. Merrell Dow Pharms., Inc.</i>, 509 U.S. 579 (1993).</p> <p>FRE 801/802: the exhibit includes inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein.</p> <p>FRE 1006: the exhibit provides an improper summary of the evidence</p> <p>FRE 705/37 C.F.R. § 42.65: the exhibit includes expert testimony that does not disclose the underlying facts or data and improper discussion of patent law.</p>
Exhibit 1004	<p>FRE 701/702/703: Paragraphs 18-27, 29-39, 41-48, 50-51, 59-64, 67-69 include opinions that are not admissible under FRE 701, 702, or 703, or <i>Daubert v. Merrell Dow Pharms., Inc.</i>, 509 U.S. 579 (1993).</p> <p>FRE 801/802: the exhibit includes inadmissible hearsay if offered to prove the truth of any matter allegedly asserted</p>

Evidence	Objections
	<p>therein.</p> <p>FRE 1006: the exhibit provides an improper summary of the evidence</p> <p>FRE 705/37 C.F.R. § 42.65: the exhibit includes expert testimony that does not disclose the underlying facts or data and improper discussion of patent law.</p>
Exhibit 1005	<p>FRE 801/802: the exhibit is inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein.</p> <p>FRE 805: the exhibit includes improper hearsay within hearsay.</p> <p>FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.</p>
Exhibit 1006	<p>FRE 801/802: the exhibit is inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein.</p> <p>FRE 805: the exhibit includes improper hearsay within hearsay.</p> <p>FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.</p>

Evidence	Objections
Exhibit 1010	<p>FRE 402: the exhibit is not relevant to any ground upon which trial was instituted.</p> <p>FRE 403: the exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.</p>
Exhibit 1011	FRE 106: the exhibit violates the rule of completeness.
Exhibit 1012	<p>Lack of Foundation: Petitioner has not provided sufficient explanation of what the exhibit is or what it allegedly shows.</p> <p>FRE 402: the exhibit is not relevant to any ground upon which trial was instituted.</p>
Exhibit 1015	<p>FRE 402: the exhibit is not relevant to any ground upon which trial was instituted.</p> <p>FRE 403: the exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.</p>

Evidence	Objections
Exhibit 1016	<p>FRE 801/802: the exhibit is inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein.</p> <p>FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.</p>
Exhibit 1017	<p>FRE 801/802: the exhibit is inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein.</p> <p>FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.</p>

Date: December 18, 2015

Respectfully submitted,

/ Brian E. Ferguson /

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