

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

HYDRITE CHEMICAL CO.,
Petitioner,

v.

SOLENIS TECHNOLOGIES, L.P.,
Patent Owner.

Case IPR2015-01592
Patent 8,962,059

OBJECTIONS UNDER 37 C.F.R. § 42.64(b)(1)
TO EVIDENCE SUBMITTED WITH THE PATENT OWNER'S RESPONSE

Filed via PRPS

Dear Board:

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner objects to the admissibility of the documents identified below that were submitted by Patent Owner with the "Patent Owner's Response Under 37 C.F.R. § 42.120" on April 22, 2016, Paper No. 15 ("POR"), for the following reasons:

1. Petitioner objects to Patent Owner's Ex. 2003 because it fails to disclose the underlying facts and data on which the opinion is based, and therefore is entitled to no weight under 37 C.F.R. § 42.65. For instance, Ex. 2003 fails

to provide any relevant information concerning the facts and data relied upon in Exs. 2010 and 2015, and for example, Dr. Kohl relied upon Table 1 of U.S. Patent No. 8,962,059 in contravention of 37 C.F.R. § 42.61(c). Petitioner further objects to Patent Owner's Ex. 2003 as lacking foundation, assuming facts not in evidence, and containing testimony on matters as to which the declarant lacks sufficient knowledge (personal or otherwise). In addition, Petitioner objects to Ex. 2003 because it is irrelevant under Federal Rule of Evidence ("FRE") 401 and 402, and as being confusing and misleading under FRE 403, at least to the extent that Ex. 2003 incorporates or relies upon objectionable exhibits. For example, with citation to Ex. 2002, Dr. Kohl states, for the truth of the matter asserted, that "[t]hose of ordinary skill in the art would recognize these to be 'distinct' processes that generate 'unique co-products' (*see* Ex. 2002 at 2-7)." Ex. 2003, ¶ 65.

2. Petitioner objects to Patent Owner's Ex. 2004 because it fails to disclose the underlying facts and data on which the opinion is based, and therefore is entitled to no weight under 37 C.F.R. § 42.65. For instance, Ex. 2004 fails to provide any relevant information concerning the facts and data relied upon in Exs. 2008, 2009, 2010, 2011, 2015, 2016, 2017, 2018, 2019, 2020, and 2021, and for example, that "Solenis began developing the DimensionTM products in 2009." Ex. 2004, ¶ 6. Petitioner further objects to Patent

Owner's Ex. 2004 as lacking foundation, assuming facts not in evidence, and containing testimony on matters as to which the declarant lacks sufficient knowledge (personal or otherwise). In addition, Petitioner objects to Ex. 2004 because it is irrelevant under FRE 401 and 402, and as being confusing and misleading under FRE 403, at least to the extent that Ex. 2004 incorporates or relies upon objectionable exhibits.

3. Petitioner objects to Patent Owner's Exs. 2007, 2008, 2009, 2010, and 2011 because each is hearsay and contains hearsay under FRE 801, and each is inadmissible under FRE 802-807. For example, Exs. 2008, 2009, 2010, and 2011 state, for the truth of the matter asserted, that Solenis' extraction aids have achieved certain results in connection with oil extraction. In addition, Petitioner objects to Patent Owner's Exs. 2007, 2008, 2009, 2010, and 2011 because each is irrelevant under FRE 401 and FRE 402, and each is confusing and misleading under FRE 403, such as, for example in connection with Ex. 2004 and the POR at Section VI.
4. Petitioner objects to Patent Owner's Ex. 2014 because it has not been authenticated as required by FRE 901. Ex. 2014 includes a listing of "Existing" "Sugar/Starch Plans" under the heading "U.S. Ethanol Plants," which Patent Owner's declarant, Jennifer Bailey, states is available at a website address. Ex. 2004, ¶ 14. However, evidence sufficient to support a

finding that Ex. 2014 is what it purports to be is not provided. Ex. 2014 is not self-authenticating under FRE 902. Furthermore, Petitioner objects to Patent Owner's Ex. 2014 because it is hearsay and contains hearsay under FRE 801, and is inadmissible under FRE 802-807. For example, with citation to Ex. 2014, Jennifer Bailey states, for the truth of the matter asserted, that "[c]urrently, there are approximately 216 corn-to-ethanol plants in the United States (Ex. 2014, U.S. Ethanol Plants)."

5. Petitioner objects to Patent Owner's Exs. 2015, 2016, 2017, 2018, 2019, and 2020 because each is hearsay and contains hearsay under FRE 801, and each is inadmissible under FRE 802-807. For example, Exs. 2015, 2016, 2017, 2018, 2019, and 2020 state, for the truth of the matter asserted, that Solenis' extraction aids have achieved certain results in connection with oil extraction.
6. Petitioner objects to Patent Owner's Ex. 2021 because it is hearsay and contains hearsay under FRE 801, and is inadmissible under FRE 802-807. For example, Ex. 2021 states, for the truth of the matter asserted, that Solenis' extraction aids have achieved certain results in connection with oil extraction.

These objections have been filed and served within five (5) business days of service of the objectionable evidence on April 22, 2016.

Respectfully submitted,

Date: April 29, 2016

By: /Richard T. Roche/
Richard T. Roche
Reg. No. 38,599
Lead Counsel for Petitioner

Date: April 29, 2016

By: /Joel A. Austin/
Joel A. Austin
Reg. No. 59,712
Back-up Counsel for Petitioner

Date: April 29, 2016

By: /Christopher J. Fahy/
Christopher J. Fahy
Pro Hac Vice Admission
Counsel for Petitioner

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