

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

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HYDRITE CHEMICAL CO.,  
Petitioner,

v.

SOLENIS TECHNOLOGIES, L.P.,  
Patent Owner.

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Case IPR2015-01592

U.S. Patent No. 8,962,059

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PETITIONER'S RESPONSE

TO

PATENT OWNER'S MOTION FOR OBSERVATIONS ON CROSS EXAMINATION OF

PETITIONER'S REPLY WITNESS

DAVID A. ROCKSTRAW

Petitioner submits the following responses to Patent Owner’s Motion for Observation on Cross Examination of Petitioner’s Reply Witness David A. Rockstraw (Paper No. 25) (“Patent Owner’s Observations”). *See* IPR2013-00057, Paper No. 29, p. 3; *see also* Office Patent Trial Practice Guide, 77 Fed. Reg. at 48,768. In addition to the explicit, concise responses provided below, Petitioner generally takes exception to Patent Owner’s Observations to the extent it is being used to argue issues related to Patent Owner’s contentions of “new reply evidence” or arguments outside of the Board’s explicit Order on these issues. *See* Paper No. 24.

Petitioner notes that the initial reference to Exhibit 2029 on page 1 of Patent Owner’s Observations appears to be a typographical error—the August 2, 2016 deposition transcript of David A. Rockstraw was filed by Patent Owner as Exhibit 2028.

In addition, Patent Owner also appears to reference unrelated pages of its Patent Owner Response (Paper No. 15) in connection with Observations 1–3 and 5–8. Specifically, Patent Owner refers to pages 35–36 of Patent Owner’s Response, which discuss Bonanno. Observations 4 and 11 do not suffer from the same uncertainty and cite to “Patent Owner’s Identification of New Evidence and Arguments in Petitioner’s Reply Papers” for purported relevance. While Petitioner could have responded that the respective Observations are not relevant to the cited

Bonanno portions, in an effort to earnestly respond, Petitioner has endeavored to surmise what pages Patent Owner intended to reference. Petitioner respectfully requests that the Board not prejudice Petitioner as a result of the oversights made by Patent Owner in its Patent Owner's Observations.

### **Response to Patent Owner's Observation 1:**

In Exhibit 2028 at 11:24–12:4, Dr. Rockstraw testified that the definition of the word “opposite” would “depend on the situation.” This testimony is relevant to the characterization of Dr. Rockstraw's testimony on page 1 of Patent Owner's Observations. The testimony is relevant because Dr. Rockstraw was asked to define the word “opposite” in the abstract.

In Exhibit 2028 at 11:24–17:18, Dr. Rockstraw testified in response to Patent Owner's hypothetical scenario. This testimony is relevant to the characterization of Dr. Rockstraw's testimony on page 1 of Patent Owner's Observations. The testimony is relevant because Dr. Rockstraw was bounded by the hypothetical scenario and not addressing Alther (Ex. 1007).

In Exhibit 2028 at 40:20–42:13, Dr. Rockstraw testified that in “a system where the HLB is 10, an emulsifier that's 10.5 is on the opposite side of the stability peak for one that's 9.5” and that he “would define the opposite there as in a direction away from the stability peak.” This testimony is relevant to the

characterization of Dr. Rockstraw’s testimony on page 1 of Patent Owner’s Observations. The testimony is relevant because it is consistent with Petitioner’s and Dr. Rockstraw’s application of Alther (Ex. 1007) and ICI (Ex. 1008) (*e.g.*, the HLB system) set forth in the Petition (Paper No. 1) at, for example, pages 8–13 and Ex. 1005 (Dr. Rockstraw’s declaration) at, for example, ¶¶ 78–88, and responsive to Patent Owner’s Response (Paper No. 15) at, for example, pages 24–26.

### **Response to Patent Owner’s Observation 2:**

In Exhibit 2028 at 18:23–19:12, Dr. Rockstraw testified that the conjunction “or” is “connecting two options essentially.” This testimony is relevant to the characterization of Dr. Rockstraw’s testimony on pages 1–2 of Patent Owner’s Observations. The testimony is relevant because Dr. Rockstraw was asked to address the conjunction “or” in the abstract.

In Exhibit 2028 at 37:17–21 and 40:20–41:24, Dr. Rockstraw testifies that “Alther is also including the emulsifiers themselves in his comparisons,” and that Alther teaches that it “disrupts the HLB.” This testimony is relevant to the characterization of Alther on pages 1–2 of Patent Owner’s Observations. The testimony is relevant because it is consistent with Petitioner’s and Dr. Rockstraw’s application of Alther (Ex. 1007) and ICI (Ex. 1008) (*e.g.*, the HLB system) set

forth in the Petition (Paper No. 1) at, for example, pages 8–13 and Ex. 1005 (Dr. Rockstraw’s declaration) at, for example, ¶¶ 78–88, and responsive to Patent Owner’s Response (Paper No. 15) at, for example, pages 24–26.

### **Response to Patent Owner’s Observation 3:**

In Exhibit 2028 at 39:18–42:13, Dr. Rockstraw testifies that Alther is “referring to the HLB of the system” and that he “would define the opposite there as in a direction away from the stability peak.” This testimony is relevant to the characterization of Alther on page 2 of Patent Owner’s Observations. The testimony is relevant because it is consistent with Petitioner’s and Dr. Rockstraw’s application of Alther (Ex. 1007) and ICI (Ex. 1008) (*e.g.*, the HLB system) set forth in the Petition (Paper No. 1) at, for example, pages 8–13 and Ex. 1005 (Dr. Rockstraw’s declaration) at, for example, ¶¶ 78–88, and responsive to Patent Owner’s Response (Paper No. 15) at, for example, pages 24–26.

### **Response to Patent Owner’s Observation 4:**

In Exhibit 2028 at 26:3–12, 31:4–21, 48:22–49:4, 71:16–21, 72:8–13, 74:7–10, 97:9–19, and 99:14–24, Dr. Rockstraw testifies regarding his understanding and application of Atlas. This testimony is relevant to the characterization of Atlas on page 3 of Patent Owner’s Observations. The testimony is relevant because it is

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