

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

E. I. DU PONT DE NEMOURS AND COMPANY and
ARCHER-DANIELS-MIDLAND COMPANY,
Petitioners,

v.

FURANIX TECHNOLOGIES B.V.,
Patent Owner

Case IPR2015-01838
Patent 8,865,921

**PATENT OWNER'S OBJECTIONS TO EVIDENCE
SUBMITTED BY PETITIONERS**

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner, Furanix Technologies B.V. (“Furanix”) objects to the admissibility of the following exhibits filed by Petitioners.

In this paper, a reference to “FRE” means the Federal Rules of Evidence, a reference to “CFR” means the Code of Federal Regulations, and “’921 patent” means U.S. Patent No. 8,865,921.

Furanix’s objections are as follows:

Exhibit 1002 (WO 01/072732)

Patent Owners object to Exhibit 1002 under FRE 802 (hearsay). Patent Owners also object to Exhibit 1002 under FRE 402 (relevance) and FRE 403 (confusing, waste of time), at least because the exhibit was already considered by the patent examiner during the prosecution of the ’921 patent.

Exhibit 1003 (Partenheimer et al.)

Patent Owners object to Exhibit 1003 under FRE 802 (hearsay). Patent Owners also object to Exhibit 1003 under FRE 402 (relevance) and FRE 403 (confusing, waste of time), at least because the exhibit was already considered by the patent examiner during the prosecution of the ’921 patent and the grounds on which the exhibit was submitted have not been instituted.

Exhibit 1004 (U.S. 8,558,018)

Patent Owners object to Exhibit 1004 under FRE 802 (hearsay). Patent Owner also objects to Exhibit 1004 under FRE 402 (relevance) and FRE 403 (confusing, waste of time) at least because (i) the document is not relevant to any issue in this IPR proceeding because the disclosure is not prior art and/or Petitioner has not met its burden to show the exhibit to be prior art, and (ii) the grounds on which it was submitted have not been instituted.

Exhibit 1005 (Lewkowski)

Patent Owners object to Exhibit 1005 under FRE 802 (hearsay) and FRE 901 (lacking authentication). Patent Owners object to Exhibit 1005 under FRE 402 (relevance) and FRE 403 (confusing, waste of time). Patent Owners also object to Exhibit 1005 under FRE 702 (improper expert testimony) and FRE 703 (bases of expert opinion) because the document is not of a type reasonably relied upon by experts in the field.

Exhibit 1006 (Oae et al.)

Patent Owners object to Exhibit 1006 under FRE 802 (hearsay). Patent Owners object to Exhibit 1006 under FRE 402 (relevance) and FRE 403 (confusing, waste of time).

Exhibit 1007 (USSR Patent RU-448177A1 and translation)

Patent Owners object to Exhibit 1007 under FRE 802 (hearsay). Patent Owners object to Exhibit 1007 under FRE 402 (relevance) and FRE 403 (confusing, waste of time). Patent Owners object under FRE 402 (relevance) and FRE 403 (confusing, waste of time) to the translation provided as part of the exhibit to the extent that the translation is not true and accurate.

Exhibit 1008 (U.S. 2008/0103318)

Patent Owners object to Exhibit 1008 under FRE 802 (hearsay). Patent Owners object to Exhibit 1008 under FRE 402 (relevance), FRE 403 (confusing, waste of time), and for lack of foundation at least because the document is not cited or discussed in the Declaration of Dr. Kevin J. Martin (Exhibit 1009).

Exhibit 1009 (Declaration of Dr. Kevin J. Martin)

Patent Owners object to Exhibit 1009 under FRE 802 (hearsay), FRE 702 (improper expert testimony), FRE 703 (bases for expert opinion), and 37 CFR § 42.65 as the testimony is not based on sufficient facts or data, is not the product of reliable principles and methods, and the principles and methods have not been reliably applied to the facts of the case.

Patent Owners object to Exhibit 1009 under 35 U.S.C. § 312(a)(3), 37 C.F.R. § 42.65(a) and FRE 702 (improper expert testimony), FRE 402 (relevance), and FRE 403 (confusing, waste of time) for failing to identify with particularity the

underlying facts and data on which the opinion is based; Exhibit 1009 ¶¶ 19-24, 27-28, 30, 34, 41, 48-54, 56, 58, 61- 66, 70, 72, 73, 77, 87, 93-94, 96 fail to cite any support at all, include statements that do not cite any support, and/or cite to entire documents.

Patent Owners also object to Exhibit 1009 ¶¶ 18-19, 26, 29, 31, 38-39, 41, 46-48, 50-52, 54-60, 62, 67, 69, 72, 75-76, 78-83, 85, 92-93, and 95 under FRE 402 (relevance) and FRE 403 (confusing, waste of time), as these paragraphs are not cited in the Petition.

Patent Owners object to Exhibit 1009 ¶¶ 16, 32, 40, 63, and 77 under FRE 702 (improper expert testimony), FRE 703 (bases of expert opinion), FRE 402 (relevance), and FRE 403 (confusing, waste of time) because Exhibit 1004 is not prior art and/or neither Dr. Martin nor Petitioner have shown the exhibit to be prior art.

Exhibit 1010 (Prosecution History of EP Application 2 486 028)

Patent Owners object to Exhibit 1010 under FRE 802 (hearsay). Patent Owners also object to Exhibit 1010 under FRE 402 (relevance), FRE 403 (confusing, waste of time), and for lack of foundation at least because the document is not relevant to any issue in this proceeding, the document is not prior art to the '921 patent, and the document is not cited or discussed in the Declaration of Dr. Kevin J. Martin (Exhibit 1009).

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