

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SANDOZ INC.,  
Petitioner,

v.

ELI LILLY & COMPANY,  
Patent Owner.

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Case No: IPR2016-00318  
Patent No. 7,772,209

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**PATENT OWNER'S OBJECTIONS TO SUPPLEMENTAL EVIDENCE**

Patent Owner Eli Lilly & Company (“Lilly”) hereby objects pursuant to 37 C.F.R. § 42.64(b)(1) and the Federal Rules of Evidence (“FRE”) to the admissibility of certain purported supplemental evidence served by Sandoz Inc. (“Sandoz”) on July 12, 2016. Nothing contained herein shall be deemed to withdraw any objections in Lilly’s Objections to Evidence previously served on Sandoz on June 30, 2016.

The exhibits objected to, and grounds for Lilly’s objections, are listed below. Lilly also objects to Petitioner’s reliance on or citations to any objected evidence in its papers.

**I. IDENTIFICATION OF CHALLENGED EVIDENCE AND GROUNDS FOR OBJECTIONS**

**A. Exhibit 1056**

Lilly objects to Exhibit 1056 for failing to comply with 37 C.F.R. § 42.63(b).

**B. Exhibit 1059**

Lilly objects to Exhibit 1059 under FRE 402 and 403 because it is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this compressed proceeding. Exhibit 1059 purports to authenticate the “annexed” file history of U.S. Patent No. 7,772,209 (“the ’209 patent”), but that file history is not annexed to the exhibit. Exhibit 1059 is also irrelevant to the extent that it does

not cure the objections identified in Lilly's Objections to Evidence of June 30, 2016.

**C. Exhibit 1060**

Lilly objects to Exhibit 1060, the declaration of Laura A. Lydigsen, as containing inadmissible hearsay under FRE 801 and FRE 802. Exhibit 1060 purports to authenticate Exhibit 1024, which purports to be the file history of U.S. Patent Application No. 11/288,807 ("the '807 application"). Ms. Lydigsen avers that a paralegal informed her that he obtained a copy of the '807 application's file history. *See* Ex. 1060 ¶ 4. The paralegal's statement to Ms. Lydigsen is an out-of-court statement being offered to prove the truth of the matter asserted and is, therefore, inadmissible hearsay under FRE 801 and 802. Lilly further objects to Exhibit 1060 under FRE 402, 403, and 602 to the extent that Ms. Lydigsen provides comments that are outside her personal knowledge or lack foundation. *See, e.g.*, Ex. 1060 ¶ 5.

Lilly further objects to Exhibit 1060 under FRE 402 and 403 as irrelevant and wasting time in this compressed proceeding to the extent that it does not cure the objections identified in Lilly's Objections to Evidence of June 30, 2016. Lilly further objects to Exhibit 1060 for failing to comply with 37 C.F.R. § 42.53.

**D. Exhibit 1061**

Lilly objects to Exhibit 1061 for failing to comply with 37 C.F.R. § 42.53. Lilly further objects to Exhibit 1061 under FRE 402 and 403 as irrelevant and wasting time in this compressed proceeding to the extent that it does not cure the objections identified in Lilly's Objections to Evidence of June 30, 2016.

Date: July 19, 2016

Respectfully submitted,

/Dov P. Grossman/

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**CERTIFICATE OF SERVICE**  
**(37 C.F.R. § 42.6(e))**

The undersigned hereby certifies that the foregoing Patent Owner's  
Objections to Supplemental Evidence was served on July 19, 2016 by delivering a  
copy via electronic mail on the following attorneys of record for the Petitioner:

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