

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VALVE CORPORATION,

Petitioner,

v.

IRONBURG INVENTIONS LTD.,

Patent Owner.

Cases

IPR2016-00948 (Patent 8,641,525 B2)

IPR2016-00949 (Patent 9,089,770 B2)

**PATENT OWNER'S REPLY TO MOTION TO EXCLUDE
PURSUANT TO 37 C.F.R. § 42.64(c)**

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I. INTRODUCTION

Petitioner's Exhibit 1007 should be excluded as lacking authentication, inadmissible hearsay, irrelevant to the present action, and/or confusing or misleading.

First, Petitioner has taken a shifting sand approach to its use of the U.K. Examiner's statements. Clearly, the Petitioner's statements in the Petition and Petitioner's Reply show that Petitioner is using the U.K. examiner's statements to argue and support Petitioner's obviousness challenge, but now Petitioner appears to change position and assert that it is using the U.K. Examiner's statements merely to show the "state of the art." Tellingly, this mischaracterization of the record is a silent admission that Petitioner's use of Exhibit 1007 is inadmissible hearsay. Further, none of the hearsay exceptions are applicable here.

Second, Petitioner recognizes that Exhibit 1007 is not self-authenticating, and relies solely on the Harrison Declaration and the IPR Petition for authentication. However, both are grossly deficient and do not meet the standard set forth in *Nestle Oil OYJ, v. REG Synthetic Fuels, LLC*, IPR2013-00578, Paper 53 at 4 (PTAB March 12, 2015) and its progeny. Notably, Petitioner has failed to address *Nestle Oil* or any of the cases raised by Patent Owner in the Motion to Exclude.

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