

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

**R.J. REYNOLDS VAPOR COMPANY,**  
Petitioners

v.

**FONTEM HOLDINGS 1 B.V.,**  
Patent Owner

---

Case **IPR2016-01268**  
Patent No. **8,365,742**

---

**PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE  
UNDER 37 C.F.R. § 42.64(b)(1)**

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Fontem Holdings 1 B.V. objects to the evidence submitted by Petitioner R.J. Reynolds Vapor Company with the Petition (Paper 2) filed July 2, 2016.

**Exhibit 1002**

Patent Owner objects to Exhibit 1002 (Chinese Patent No. 2719043Y to Lik Hon) as originally filed for failing to meet the requirements of 37 C.F.R. § 42.63(b) because that exhibit was not filed with an affidavit as defined by 37 C.F.R. § 42.2, as discussed below with respect to Exhibit 1003.

**Exhibit 1003**

Patent Owner objects to Exhibit 1003 (Certified English translation of Chinese Pat. No. 2719043Y to Lik Hon) as originally filed for failing to provide a translation in accordance with 37 C.F.R. § 42.63(b). Specifically, Exhibit 1003 was not filed with an affidavit, as defined by 37 C.F.R. § 42.2, attesting to the accuracy of the translation.

**Exhibit 1005**

Patent Owner objects to Exhibit 1005 (Application Data Sheet of April 5, 2011 Filed in U.S. Pat. Appl. No. 13/079,937) as an incomplete copy, and thus an inadmissible duplicate pursuant to FRE 1002 and 1003.

Patent Owner further objects to Exhibit 1005 as creating unfair prejudice, confusing the issues, or as a waste of time pursuant to FRE 403. The Board did not rely on Exhibit 1005 in its decision to institute trial, thus the Exhibit does not include any fact of consequence, nor does it have any tendency to make a fact more or less probable than it would be without its admission.

If the Board admits Exhibit 1005, Patent Owner objects that it is only part of a writing under FRE 106.

**Exhibit 1006**

Patent Owner objects to Exhibit 1006 (Preliminary Amendment of April 5, 2011 Filed in U.S. Pat. Appl. No. 13/079,937) as an incomplete copy, and thus an inadmissible duplicate pursuant to FRE 1002 and 1003.

Patent Owner further objects to Exhibit 1005 as creating unfair prejudice, confusing the issues, or as a waste of time pursuant to FRE 403. The Board did not rely on Exhibit 1006 in its decision to institute trial, thus the Exhibit does not include any fact of consequence, nor does it have any tendency to make a fact more or less probable than it would be without its admission.

If the Board admits Exhibit 1006, Patent Owner objects that it is only part of a writing under FRE 106.

**Exhibit 1007**

Patent Owner objects to Exhibit 1007 (Non-Final Office Action of July 19, 2012 in U.S. Pat. Appl. No. 13/079,937) as an incomplete copy, and thus an inadmissible duplicate pursuant to FRE 1002 and 1003.

Patent Owner further objects to Exhibit 1007 as creating unfair prejudice, confusing the issues, or as a waste of time pursuant to FRE 403. The Board did not rely on Exhibit 1007 in its decision to institute trial, thus the Exhibit does not include any fact of consequence, nor does it have any tendency to make a fact more or less probable than it would be without its admission.

If the Board admits Exhibit 1007, Patent Owner objects that it is only part of a writing under FRE 106.

**Exhibit 1008**

Patent Owner objects to Exhibit 1008 (Amendment of August 3, 2012 in U.S. Pat. Appl. No. 13/079,937) as an incomplete copy, and thus an inadmissible duplicate pursuant to FRE 1002 and 1003.

Patent Owner further objects to Exhibit 1008 as creating unfair prejudice, confusing the issues, or as a waste of time pursuant to FRE 403. The Board did not rely on Exhibit 1008 in its decision to institute trial, thus the Exhibit does not

include any fact of consequence, nor does it have any tendency to make a fact more or less probable than it would be without its admission.

If the Board admits Exhibit 1008, Patent Owner objects that it is only part of a writing under FRE 106.

**Exhibit 1009**

Patent Owner objects to Exhibit 1009 (PCT Pub. No. WO2007131449) for failing to meet the requirements of 37 C.F.R. § 42.63(b) because that exhibit was not filed with an affidavit as defined by 37 C.F.R. § 42.2, as discussed below with respect to Exhibit 1010.

**Exhibit 1010**

Patent Owner objects to Exhibit 1010 (English translation of PCT Pub. No. WO2007131449) for failing to provide a translation in accordance with 37 C.F.R. § 42.63(b). Specifically, Exhibit 1010 was not filed with an affidavit, as defined by 37 C.F.R. § 42.2, attesting to the accuracy of the translation.

**Exhibit 1015**

Patent Owner objects to Exhibit 1015 (Declaration of Robert H. Sturges) as lacking sound evidentiary basis, biased, vague, misleading, confusing the issues, and more prejudicial than probative under FRE 403. For example, paragraphs 44-50 of Exhibit 1015 offer opinions regarding “friction fit,” “bonding material,”

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.