

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

R.J. REYNOLDS VAPOR COMPANY,

Petitioner

v.

FONTEM HOLDINGS 1 B.V.,

Patent Owner

Case IPR2016-01268

Patent 8,365,742

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

Pursuant to 37 C.F.R. § 42.64(b)(1), R.J. Reynolds Vapor Company (“Petitioner”) objects to the evidence submitted by Patent Owner Fontem Holdings 1 B.V. with the Patent Owner’s Preliminary Response To Petition For *Inter Partes* Review (Paper 8) filed October 7, 2016.

Petitioner objects to Exhibit 2001 (Declaration of Richard Meyst) as lacking sound evidentiary basis, biased, vague, misleading, confusing the issues, and more prejudicial than probative under FRE 403. If Meyst is presented as a lay witness, Petitioner objects under FRE 701 that the testimony is based on alleged scientific and/or technical knowledge. If Meyst is presented as an expert witness, Petitioner objects under FRE 702 that the testimony is not based upon sufficient facts or data and is not the result of application of reliable principles and methods. Petitioner further objects under FRE 703 that the facts or data are not of a type reasonably relied upon by experts. Any paragraph in the Meyst Declaration that relies upon any exhibit not relied upon by the PTAB to institute this proceeding is further objected to as not being relevant and therefore being inadmissible under FRE 401 and 402.

Respectfully submitted,

Dated: January 18, 2017

/s/ Ralph J. Gabric

Ralph J. Gabric (Reg. No. 34,167)

Robert Mallin (Reg. No. 35,596)

Yuezhong Feng (Reg. No. 58,657)

Brinks Gilson & Lione

NBC Tower – Suite 3600

455 N. Cityfront Plaza Dr.
Chicago, Illinois 60611
Attorneys for Petitioner

CERTIFICATE OF SERVICE

Pursuant to 37 CFR §§ 42.6(e)(4)(i) *et seq.* and 42.105(b), the undersigned certifies that on January 18, 2017, a complete and entire copy of this Petitioner's Objections To Patent Owner's Evidence Under 37 C.F.R. § 42.64(b)(1) was served by Electronic submission through the USPTO Patent Trial and Appeal Board End-to-End System and by e-mail to

Michael J. Wise, Lead Counsel (Mwise@perkinscoie.com)
Joseph P. Hamilton, Back-up Counsel
(JHamilton@perkinscoie.com)
Jenna M. DeRosier (JDeRosier@perkinscoie.com)
Tyler R. Bowen, Back-up Counsel
(TBowen@perkinscoie.com)
Amy Candeloro (ACandeloro@perkinscoie.com)
patentprocurement@perkinscoie.com

Dated: January 18, 2017

/s/ Ralph J. Gabric

Ralph J. Gabric (Reg. No. 34,167)
Brinks Gilson & Lione
NBC Tower – Suite 3600
455 N. Cityfront Plaza Dr.
Chicago, Illinois 60611
Attorneys for Petitioner