

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DEXCOM, INC.,
Petitioner,

v.

WAVEFORM TECHNOLOGIES, INC.
Patent Owner.

Case IPR2016-01679; -01680
U.S. Patent Nos. 7,146,202; 8,187,433

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

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner Dexcom, Inc. (“Dexcom”) files these objections to evidence served by Patent Owner WaveForm Technologies, Inc. (“WaveForm”) via e-mail on April 28, 2017. The 2 documents (the “Documents”) served by WaveForm are listed below in Schedule A. This notice is being timely filed within 5 business days of service of the Documents.

All objections under FRE 801/802 (hearsay) and/or 37 C.F.R. § 42.61(c) (lack of affidavit to prove truth of data) apply to the extent Petitioner relies on the exhibits identified in connection with those objections for the truth of the matters asserted therein.

1. Documents Listed in Schedule A

FRE 401/402; 403

Petitioner objects to the admissibility of the Documents pursuant to Federal Rules of Evidence (“FRE”) 401/402 (relevance) and 403 (probative value outweighed by prejudice, confusing of issues, wasting time). At present time, the Documents are not relevant to any arguments of record by either party in this proceeding.

FRE 801/802; 37 C.F.R. § 42.61(c)

Petitioner objects to the admissibility of the Documents pursuant to FRE 801/802 (hearsay); 37 C.F.R. § 42.61(c) (lack of affidavit to prove truth of data). At the present time, Petitioner does not have any context for how the Documents

will be used in this proceeding (*e.g.*, the extent to which they will be used in an attempt establish the truth of a matter). Accordingly, the Documents are objected to as being potentially inadmissible under FRE 801/802; 37 C.F.R. § 42.61(c).

FRE 901

Petitioners object to the admissibility of the Documents pursuant to FRE 901 (lack of authentication). WaveForm has not provided proper authentication (or stipulation of authentication) of the Documents. Accordingly, the Documents are objected to as being inadmissible under FRE 901.

Respectfully submitted,

Dated: May 5, 2017

/Matthew W. Johnson/
Matthew W. Johnson (Reg. No. 59,108)

Attorney for Petitioner Dexcom, Inc.

Schedule A

DEXCOM 623926	DXCM Q4 2015 transcript.pdf
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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on May 5, 2017, a complete and entire copy of **PETITIONER'S OBJECTIONS UNDER 37 C.F.R. § 42.64(B)(1) TO EVIDENCE SERVED** has been served in its entirety by e-mail on the following counsel of record for Petitioner:

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Respectfully submitted,

Dated: May 5, 2017

/Matthew W. Johnson/

Matthew W. Johnson (Reg. No. 59,108)