

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ACTAVIS LLC,
Petitioner

v.

ABRAXIS BIOSCIENCE, LLC,
Patent Owner

Case IPR2017-01103
Patent 7,923,536 B2

PETITIONER'S OBJECTIONS TO EVIDENCE

Pursuant to 37 C.F.R. §42.64(b)(1), Petitioner objects to the admissibility of evidence submitted during the preliminary proceeding as follows:¹

Exhibit(s)	Objection(s)
<p>1023</p> <p>¶¶ 6–39</p>	<p>To the extent Patent Owner relies on the Declaration of Neil P. Desai for expert opinion and/or the truth of any matter asserted therein (<i>see, e.g.</i>, Paper 6 at 7–8, 40, 42, 55–62):</p> <p><i>FRE 702(a)</i>: The declarant has not been shown to be qualified as an expert on the subject matter of his declaration, and thus cannot testify in the form of an opinion or otherwise in a manner that would assist the Board to understand the evidence or to determine a fact in issue.</p> <p><i>FRE 702(b)–(d)</i>: The declarant’s testimony is not based on sufficient facts or data, is not the product of reliable principles and methods, and does not reliably apply such principles and methods to the facts of the case.</p> <p><i>FRE 703</i>: The facts or data on which the declarant relies are inadmissible, and their probative value does not substantially outweigh their prejudicial effect.</p>

¹ References to “FRE” are to the Federal Rules of Evidence.

Exhibit(s)	Objection(s)
	<p><i>FRE 801/802:</i> To the extent Petitioner is not afforded the opportunity to cross-examine the declarant pursuant to 37 C.F.R. §42.51(b)(1)(ii), the statements in this exhibit are hearsay and do not fall under any exceptions.</p> <p><i>Lack of Foundation:</i> The declarant does not provide sufficient explanation for the bases of the declaratory testimony.</p>
<p>2001</p> <p>¶¶ 25, 28–36</p>	<p><i>FRE 702(b)–(d):</i> The declarant’s testimony is not based on sufficient facts or data, is not the product of reliable principles and methods, and does not reliably apply such principles and methods to the facts of the case.</p> <p><i>FRE 703:</i> The facts or data on which the declarant relies are inadmissible, and their probative value does not substantially outweigh their prejudicial effect.</p> <p><i>FRE 801/802:</i> To the extent Petitioner is not afforded the opportunity to cross-examine the declarant pursuant to 37 C.F.R. §42.51(b)(1)(ii), the statements in this exhibit are hearsay and do not fall under any exceptions.</p> <p><i>Lack of Foundation:</i> The declarant does not provide sufficient explanation for the bases of the declaratory testimony.</p>

Exhibit(s)	Objection(s)
<p>2006</p> <p>2010</p> <p>2015</p> <p>2032</p> <p>2051</p>	<p><i>FRE 901/902:</i> Patent Owner has not produced evidence sufficient to support a finding that any of these exhibit is what Patent Owner claims it is, nor has Patent Owner presented any evidence that any of these exhibits is self-authenticating under FRE 902.</p> <p><i>FRE 1002/1003:</i> Patent Owner has not shown that any of these exhibits is an original document or an authentic duplicate.</p>
<p>2044</p> <p>2045</p>	<p><i>FRE 401/402/403 / Improper Incorporation by Reference:</i></p> <p>Neither Patent Owner nor its declarant cited these exhibits, and thus they are irrelevant, unduly prejudicial, and/or improperly incorporated by reference. <i>See</i> 37 C.F.R. §42.6(a)(3).</p>

Dated: October 24, 2017

Respectfully submitted,

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CERTIFICATE OF SERVICE ON PATENT OWNER

The undersigned hereby certifies that a copy of the foregoing *Petitioner's Objections to Evidence* was served on October 24, 2017, via email on the following lead and backup counsel of record for Patent Owner:

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