

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WEATHERFORD INTERNATIONAL, LLC,
Petitioner,

v.

BAKER HUGHES OILFIELD OPERATIONS, LLC,
Patent Owner.

Case IPR2019-00768
Patent RE46,137

**PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE
SERVED WITH ITS REPLY**

As set forth below, Patent Owner objects to evidence that Petitioner served with its Reply (Paper 25).

Ex. # and Petitioner's Description	Objections
<p>1027. Baker Hughes Model "B" Annulus Operated Reversing Valve with Rupture Disc, July 1997</p>	<p><u>Hearsay.</u> Fed. R. Evid. 801(c) and 802. Petitioner relies on Ex. 1027 to prove the truth of out-of-court statements therein, e.g., that it shows a "Baker Hughes [(actually, 'BAKER OIL TOOLS' (Ex. 1027 at 1))] Model 'B' Annulus Operated Reversing Valve with Rupture Disc," and that that tool actually had the depicted components and dimensions. Paper 25 at 16-17. Such statements are thus hearsay, and Petitioner has not offered evidence sufficient to demonstrate that they fall within any exception to the rule against hearsay.</p> <p><u>Authenticity.</u> Fed. R. Evid. 901(a). Petitioner has not produced evidence sufficient to support a finding that Ex. 1027 is what Petitioner purports it to be: "Baker Hughes Model 'B' Annulus Operated Reversing Valve with Rupture Disc, July 1997." Paper 26 at 2.</p> <p>Patent Owner objected to Ex. 1027 as unauthenticated when Petitioner introduced it during Dr. Fleckenstein's deposition (Ex. 1045 at 133:12-135:9), and Petitioner did not cure that objection during the deposition. 37 C.F.R. § 42.64(a). Nor did Petitioner—to the extent the rules would have permitted it to—cure that objection within 10 business days of Patent Owner making it. <i>Id.</i> at § 42.64(b)(2). Petitioner's Reply evidence comes too late to do so.</p> <p><u>Incomplete.</u> Fed. R. Evid. 106. Ex. 1027 is allegedly one of a collection of documents contained on a CD. Ex. 1037 at ¶¶ 6 and 7. But Petitioner has made neither the CD nor the full collection of documents available to Patent Owner.</p>

<p>1028. Baker Hughes Model “A” Sampler, July 1997</p>	<p><u>Hearsay.</u> Fed. R. Evid. 801(c) and 802. Petitioner relies on Ex. 1028 to prove the truth of out-of-court statements therein, e.g., that it shows “PO’s [(actually, ‘BAKER OIL TOOLS[’s]’ (Ex. 1028 at 1))] Model ‘A’ Sampler,” and that that tool actually had the depicted components and dimensions. Paper 25 at 17. Such statements are thus hearsay, and Petitioner has not offered evidence sufficient to demonstrate that they fall within any exception to the rule against hearsay.</p> <p><u>Authenticity.</u> Fed. R. Evid. 901(a). Petitioner has not produced evidence sufficient to support a finding that Ex. 1028 is what Petitioner purports it to be: “Baker Hughes Model ‘A’ Sampler, July 1997.” Paper 26 at 2.</p> <p>Patent Owner objected to Ex. 1028 as unauthenticated when Petitioner introduced it during Dr. Fleckenstein’s deposition (Ex. 1045 at 146:22-147:1 and 135:3-9), and Petitioner did not cure that objection during the deposition. 37 C.F.R. § 42.64(a). Nor did Petitioner—to the extent the rules would have permitted it to—cure that objection within 10 business days of Patent Owner making it. <i>Id.</i> at § 42.64(b)(2). Petitioner’s Reply evidence comes too late to do so.</p> <p><u>Incomplete.</u> Fed. R. Evid. 106. Ex. 1028 is allegedly one of a collection of documents contained on a CD. Ex. 1037 at ¶¶ 6 and 7. But Petitioner has made neither the CD nor the full collection of documents available to Patent Owner.</p>
<p>1029. Baker Hughes Model “C” Annulus Operated Reversing Valve, Nov. 1997</p>	<p><u>Hearsay.</u> Fed. R. Evid. 801(c) and 802. Petitioner relies on Ex. 1029 to prove the truth of out-of-court statements therein, e.g., that it shows “PO’s [(actually, ‘BAKER OIL TOOLS[’s]’ (Ex. 1029 at 1))] Model ‘C’ Annulus Operated Reversing Valve,” and that that tool actually had the depicted components and dimensions. Paper 25 at 17. Such statements are thus hearsay, and Petitioner has not offered evidence sufficient to</p>

	<p>demonstrate that they fall within any exception to the rule against hearsay.</p> <p><u>Authenticity.</u> Fed. R. Evid. 901(a). Petitioner has not produced evidence sufficient to support a finding that Ex. 1029 is what Petitioner purports it to be: “Baker Hughes Model ‘C’ Annulus Operated Reversing Valve, Nov. 1997.” Paper 26 at 2.</p> <p>Patent Owner objected to Ex. 1029 as unauthenticated when Petitioner introduced it during Dr. Fleckenstein’s deposition (Ex. 1045 at 162:17-19 and 135:3-9), and Petitioner did not cure that objection during the deposition. 37 C.F.R. § 42.64(a). Nor did Petitioner—to the extent the rules would have permitted it to—cure that objection within 10 business days of Patent Owner making it. <i>Id.</i> at § 42.64(b)(2). Petitioner’s Reply evidence comes too late to do so.</p> <p><u>Incomplete.</u> Fed. R. Evid. 106. Ex. 1029 is allegedly one of a collection of documents contained on a CD. Ex. 1037 at ¶¶ 6 and 7. But Petitioner has made neither the CD nor the full collection of documents available to Patent Owner.</p>
1033. Marco Rubber & Plastics, Standard USA O-Rings Sizes	<p><u>Hearsay.</u> Fed. R. Evid. 801(c) and 802. Petitioner relies on Ex. 1033 to prove the truth of out-of-court statements therein, e.g., that “the o-ring part numbers show that they are standard sizes and 336 is an o-ring that is smaller than 337” (and the like). Paper 25 at 17. Such statements are thus hearsay, and Petitioner has not offered evidence sufficient to demonstrate that they fall within any exception to the rule against hearsay.</p> <p><u>Unauthenticated.</u> Fed. R. Evid. 901(a). Petitioner has not produced evidence sufficient to support a finding that Ex. 1033 is what Petitioner purports it to be: “Marco Rubber & Plastics, Standard USA O-Rings Sizes.” Paper 26 at 2.</p>

	<p>Patent Owner objected to Ex. 1033 as unauthenticated when Petitioner introduced it during Dr. Fleckenstein’s deposition (Ex. 1045 at 143:20-23 and 135:3-9), and Petitioner did not cure that objection during the deposition. 37 C.F.R. § 42.64(a). Nor did Petitioner—to the extent the rules would have permitted it to—cure that objection within 10 business days of Patent Owner making it. <i>Id.</i> at § 42.64(b)(2). Petitioner’s Reply evidence comes too late to do so.</p>
<p>1047. Excerpts from Aerospace Size Standard for O-Rings (AS 568A)</p>	<p><u>Hearsay</u>. Fed. R. Evid. 801(c) and 802. Petitioner relies on Ex. 1047 to prove the truth of out-of-court statements therein, e.g., that “the o-ring part numbers show that they are standard sizes and 336 is an o-ring that is smaller than 337” (and the like). Paper 25 at 17. Such statements are thus hearsay, and Petitioner has not offered evidence sufficient to demonstrate that they fall within any exception to the rule against hearsay.</p> <p><u>Unauthenticated</u>. Fed. R. Evid. 901(a). Petitioner has not produced evidence sufficient to support a finding that Ex. 1047 is what Petitioner purports it to be: “Excerpts from Aerospace Size Standard for O-Rings (AS 568A).” Paper 26 at 3.</p> <p><u>Incomplete</u>. Fed. R. Evid. 106. Ex. 1047 is allegedly “Excerpts from Aerospace Size Standard for O-Rings” Paper 26 at 3. But Petitioner has not made the remainder of that purported standard available to Patent Owner.</p>

Dated: March 20, 2020

Respectfully submitted,
/Mark T. Garrett/
Mark T. Garrett (Reg. No. 44,699)

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