

IPR2020-00324  
Patent 8,114,833 B2

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MYLAN INSTITUTIONAL LLC and PFIZER INC.,  
Petitioners,

v.

NOVO NORDISK A/S,  
Patent Owner.

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Case IPR2020-00324<sup>1</sup>  
Patent 8,114,833

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**PATENT OWNER'S REPLY IN SUPPORT OF ITS  
MOTION TO EXCLUDE EVIDENCE**

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<sup>1</sup> IPR2020-01252 has been joined with this proceeding.

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Patent Owner Novo Nordisk A/S (“Novo Nordisk”) submits this Reply in further support of its Motion to Exclude Evidence (Paper 52) (“Motion”).

**I. NOVO NORDISK IDENTIFIED ITS OBJECTIONS IN ITS MOTION**

Novo Nordisk’s Motion is compliant with 37 C.F.R. § 42.64(c). Specifically, Novo Nordisk cited to its objections (Paper 38) in its Motion (Paper 52 at 2), and described in detail those objections throughout its Motion (Paper 52 at 5, 7, 11-12, 13, 15). That is all that is required. *FLIR Sys., Inc. v. Leak Surveys, Inc.*, IPR2014-00411, Paper 113, at \*7 (P.T.A.B. Sept. 3, 2015). *Silicon Labs* is inapposite because there the moving party did not identify, nor explain, its objections in its motion to exclude. IPR2014-00881, Paper 47, at \*11-12 (P.T.A.B. Oct. 21, 2015). Moreover, the Board in *Silicon Labs* still considered the motion to exclude. *Id.* at \*12-14.

**II. DECLINING TO CONSIDER PETITIONERS’ EXHIBITS AS OUTSIDE THE SCOPE IS LEFT TO THE BOARD’S DISCRETION**

Petitioners argue that a motion to exclude is not the proper vehicle for arguing improper scope. Paper 56 at 3-4. But “[w]hether a reply contains arguments or evidence that are outside of a proper reply under 37 C.F.R. § 42.23(b) is left to [the Board’s] determination.” *Blackberry Corp. v. Zipit Wireless, Inc.*, IPR2014-01508, Paper 49, at \*40 (P.T.A.B. Mar. 29, 2016). The Board can and should decline to consider Petitioner’s exhibits and arguments that are improper in scope. *See, e.g., TieTex Int’l, Ltd. v. Precision Fabrics Grp., Inc.*, IPR2014-01248, Paper 39, at \*14-

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