

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

YITA LLC,
Petitioner,

v.

MACNEIL IP LLC,
Patent Owner.

Case IPR2020-01139
Patent 8,382,186

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

Submitted Electronically via the Patent Review Processing System

**PATENT OWNER'S OBJECTIONS UNDER 37 C.F.R. § 42.64 TO
PETITIONER'S EVIDENCE SUBMITTED WITH PETITION**

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner MacNeil IP LLC respectfully submits the following objections to evidence filed by Petitioner in conjunction with its Petition (Paper 3). These objections are made within ten business days of institution of the trial (January 13, 2021).

The following chart lists Patent Owner's objections to the admissibility of certain evidence (identified below) that is included within or accompanies the Petition and the basis for those objections:

Objected to Exhibit	Basis for Objection
Exhibit 1005	FRE 901: The translation has not been authenticated. Petitioner has not provided evidence describing the declarant's qualification or expertise regarding language translation or whether the declarant did the translation. <i>See, e.g., Jack v. Trans World Airlines, Inc.</i> , 854 F.Supp. 654, 659 (N.D. Cal. 1994); <i>see also Assad v. Josefsson</i> , 2018 U.S. Dist. LEXIS 102559, *5.

Petitioner has not provided evidence establishing authenticity of the Rabbe reference.

FRE 802: The translation and its certification comprise statements relied upon for the truth of the matters asserted therein. Because no hearsay exception applies, the statements in the translation and its certification are inadmissible in this proceeding.

FRE 702: Patent Owner objects to the translation and its certification to the extent that statements therein lack foundation, assume facts not in evidence, contain testimony on matters as to which the declarant lacks personal knowledge. Petitioner has not provided evidence describing the declarant's qualification or expertise regarding language translation or

	<p>whether the declarant did the translation. <i>See, e.g., Jack v. Trans World Airlines, Inc.</i>, 854 F.Supp. 654, 659 (N.D. Cal. 1994); <i>see also Assad v. Josefsson</i>, 2018 U.S. Dist. LEXIS 102559, *5.</p> <p>FRE 604: Patent Owner objects to the translation and its certification, because they do not establish the qualifications of the translator. <i>See, e.g., Contracts Materials Processing v. Katalauna GmbH Catalysts</i>, 164 F.Supp. 2d 520, 528.</p>
Exhibit 1003	<p>FRE 604, 702, 802, 901: Patent Owner objects to the content of Exhibit 1003 to the extent that the declarant, Dr. Paul E. Koch, relies on Exhibit 1005.</p>

Respectfully submitted,

Dated: January 28, 2021

By: /David G. Wille/

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Reg. No. 38,363

Lead Counsel for Patent Owner MacNeil
IP LLC

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