

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

**BAYERISCHE MOTOREN WERKE AKTIENGESELLSCHAFT &
BMW OF NORTH AMERICA, LLC**
Petitioners

v.

PAICE LLC & THE ABELL FOUNDATION, INC.
Patent Owners

IPR2020-01386
U.S. Patent No. 7,237,634

**PETITIONERS' OBJECTIONS UNDER 37 C.F.R. § 42.64
TO EVIDENCE SUBMITTED WITH PATENT OWNERS' RESPONSE**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioners Bayerische Motoren Werke Aktiengesellschaft & BMW of North America, LLC object to the following exhibits filed with the Patent Owners' Response as follows:¹

Exhibit	Objections
2016	<p>Petitioners object to this exhibit to the extent it relies on or incorporates inadmissible exhibits to which the Petitioners object herein.</p> <p>Fed. R. Evid. 402/602/702/703. Dr. Shahbakhti, the witness offering declaration testimony (a) lacks the knowledge, skill, experience, training, or education to testify as an expert in a manner that is helpful to the Board; (b) provides opinions that are not based on sufficient facts or data, or ones that he has been made aware of or personally observed; (c) has not applied reliable principles and methods; and (d) has not reliably applied such principles and methods to the facts of the case. (<i>See, e.g.</i>, ¶¶ 60, 62 (opining regarding source code); Ex. 2017.)</p> <p>37 C.F.R. § 42.65(a): Dr. Shahbakhti fails to identify with particularity the underlying facts or data on which his opinions are based. (<i>See, e.g.</i>, ¶¶ 44-47, 52, 133, 159-166, 169, 60, 65-67, 70-74, 79-84, 88, 102-103, 111-117, 121-25.)</p> <p>Fed. R. Evid. 402. This exhibit includes statements, or relies on evidence, not relevant to any ground upon which the trial was instituted. (<i>See, e.g.</i>, ¶¶ 45, 140.)</p> <p>Fed. R. Evid. 901. Dr. Shahbakhti does not properly authenticate or identify, and has not established the publication date, of certain evidence upon which he relies. (<i>See, e.g.</i>, ¶¶ 44,</p>

¹ Petitioners' objections apply equally to Patent Owners' reliance on these exhibits, including in any documents filed in this proceeding.

Petitioners' Objections to Patent Owners' Evidence
Case IPR2020-01386
U.S. Patent No. 7,237,634

	119, 130, 131, 185, 195.)
2018	<p>Fed. R. Evid. 402. This exhibit is not relevant to any ground upon which this trial was instituted. For example, the copyright date listed on the document is significantly after the September 14, 1998 priority date of the '634 Patent, which is the date that Dr. Shahbakhti states that he is using for gauging the skill of the art. (<i>See, e.g., Ex. 2016, ¶29</i>).</p> <p>Fed. R. Evid. 901. Patent Owners have not properly authenticated or identified this document, and have not established the publication date.</p> <p>Fed. R. Evid. 106. This document is incomplete and includes only a select portion of a larger document.</p>
2019	<p>Fed. R. Evid. 106. This document is incomplete and includes only a select portion of a larger document.</p>
2020	<p>Fed. R. Evid. 402. This exhibit is not relevant to any ground upon which this trial was instituted. For example, the copyright date listed on the document is significantly after the September 14, 1998 priority date of the '634 Patent, which is the date that Dr. Shahbakhti states that he is using for gauging the skill of the art. (<i>See, e.g., Ex. 2016, ¶29</i>).</p> <p>Fed. R. Evid. 901. Patent Owners have not properly authenticated or identified this document, and have not established the publication date.</p> <p>Fed. R. Evid. 106. This document is incomplete and includes only a select portion of a larger document.</p>
2022	<p>Fed. R. Evid. 402. This exhibit is not relevant to any ground upon which this trial was instituted. For example, the publication date listed on the document is significantly after the September 14, 1998 priority date of the '634 Patent, which is the date that Dr. Shahbakhti states that he is using for gauging the skill of the art. (<i>See, e.g., Ex. 2016, ¶29</i>).</p>

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2023	<p>Fed. R. Evid. 402. This exhibit is not relevant to any ground upon which this trial was instituted. For example, the copyright date listed on the document is significantly after the September 14, 1998 priority date of the '634 Patent, which is the date that Dr. Shahbakhti states that he is using for gauging the skill of the art. (<i>See, e.g., Ex. 2016, ¶29</i>).</p> <p>Fed. R. Evid. 901. Patent Owners have not properly authenticated or identified this document, and have not established the publication date.</p> <p>Fed. R. Evid. 106. This document is incomplete and includes only a select portion of a larger document.</p>
2024	<p>Fed. R. Evid. 402. This exhibit is not relevant to any ground upon which this trial was instituted. For example, the copyright date listed on the document is significantly after the September 14, 1998 priority date of the '634 Patent, which is the date that Dr. Shahbakhti states that he is using for gauging the skill of the art. (<i>See, e.g., Ex. 2016, ¶29</i>).</p> <p>Fed. R. Evid. 901. Patent Owners have not properly authenticated or identified this document, and have not established the publication date.</p> <p>Fed. R. Evid. 106. This document is incomplete and includes only a select portion of a larger document.</p>
2028	<p>Fed. R. Evid. 402. This exhibit is not relevant to any ground upon which this trial was instituted. For example, the copyright date listed on the document is significantly after the September 14, 1998 priority date of the '634 Patent, which is the date that Dr. Shahbakhti states that he is using for gauging the skill of the</p>

	<p>art. (<i>See, e.g.,</i> Ex. 2016, ¶29).</p> <p>Fed. R. Evid. 901. Patent Owners have not properly authenticated or identified this document, and have not established the publication date.</p> <p>Fed. R. Evid. 106. This document is incomplete and includes only a select portion of a larger document.</p>
2033	<p>Fed. R. Evid. 402. This exhibit is not relevant to any ground upon which this trial was instituted. For example, the document references country populations as of the year 2007 (Ex. 2033 at 6) which is significantly after the September 14, 1998 priority date of the '634 Patent, which is the date that Dr. Shahbakhti states that he is using for gauging the skill of the art. (<i>See, e.g.,</i> Ex. 2016, ¶29).</p> <p>Fed. R. Evid. 901. Patent Owners have not properly authenticated or identified this document, and have not established the publication date.</p> <p>Fed. R. Evid. 106. This document is incomplete and includes only a select portion of a larger document.</p>

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