

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VOLKSWAGEN GROUP OF AMERICA, INC.,
Petitioner

v.

STRATOSAUDIO, INC.,
Patent Owner

IPR2021-00716
U.S. Patent No. 8,688,028

**PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner, StratosAudio, Inc. (“Patent Owner”) hereby objects to the admissibility of exhibits to the petition (“Petition” or “Pet.”) for *inter partes* review (“IPR”) of U.S. Patent 8,688,028 filed by Petitioner Volkswagen Group of America, Inc., (“Petitioner”). Patent Owner’s objections are based on the Federal Rules of Evidence (“FRE”) and relevant case law, as set forth below.

Exhibit 1003

Patent Owner objects to the admissibility of Exhibit 1003 under FRE 401-402 (relevance) and FRE 403 (probative value outweighed by prejudice, confusing of issues, wasting time). In particular, paragraphs of Exhibit 1003 are neither cited nor relied on in the Petition. *See, e.g.*, EX1003, ¶¶ 32, 35, 39, 50, 68, 80, 83, 89. Thus, portions of Exhibit 1003 are irrelevant, or at least, their probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. *See, e.g., In re Nuvasive*, 842 F.3d 1376, 1380-81 (Fed. Cir. 2016) (defining substantial evidence as “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion”); *SK Innovation Co., Ltd. v. Celgard, LLC*, IPR2014-00679, Paper 58, at 49 (PTAB Sept. 25, 2015) (granting a motion to exclude because the challenged exhibits were not cited in the IPR); *Shimano, Inc.*

v. Globberide, Inc., IPR2015-00273, Paper 40, at 27-28 (PTAB June 16, 2016)
(excluding exhibits because the proffering party did not rely on those exhibits).

Dated: November 8, 2021

Respectfully submitted,

/John Scheibeler/
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Patent Owner's Objections to Petitioner's Evidence Pursuant to 37 C.F.R. § 42.64(b)(1) was served on November 8, 2021, by filing this document through the PTAB E2E System, as well as delivering a copy via electronic mail upon the following attorneys of record for Petitioner:

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