

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VOLKSWAGEN GROUP OF AMERICA, INC.,
Petitioner

v.

STRATOSAUDIO, INC.,
Patent Owner

IPR2021-00721
U.S. Patent No. 8,166,081

**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 8,166,081 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 Exhibit 1003 to the extent it relies on any exhibit that is later deemed inadmissible (including Exhibits 1006, 1007, and 1008, discussed below) under FRE 401-402 (relevance) and FRE 403 (probative value outweighed by prejudice, confusing of issues, wasting time). *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).

Exhibit 1006

Patent Owner objects to the admissibility of Exhibit 1006 under FRE 801-802 (hearsay) and FRE 901 (authentication). In particular, Exhibit 1006 is not testimony. Petitioner offers statements in this document, namely the alleged date shown thereon, to prove the truth of the matter asserted (date of public accessibility). *See, e.g.*, Pet. iv. Petitioner has not established Exhibit 1006 as self-authenticating, nor has Petitioner authenticated this document as required by FRE 901. *See, e.g., TRW Automotive U.S. LLC v. Magna Elecs. Inc.*, IPR2014-01347, Paper 25 at 10-12 (PTAB Jan. 6, 2016) (granting motion to exclude exhibit that was not self-authenticating and was not shown to be authentic).

Exhibit 1007

Patent Owner objects to the admissibility of Exhibit 1007 under FRE 801-802 (hearsay) and FRE 901 (authentication). In particular, Exhibit 1007 is not testimony. Petitioner offers statements in this document, namely the alleged date shown thereon, to prove the truth of the matter asserted (date of public accessibility). *See, e.g.*, Pet. iv. Petitioner has not established Exhibit 1007 as self-authenticating, nor has Petitioner authenticated this document as required by FRE 901. *See, e.g., TRW Automotive U.S. LLC*, Paper 25 at 10-12 (granting motion to

exclude exhibit that was not self-authenticating and was not shown to be authentic).

Exhibit 1008

Patent Owner objects to the admissibility of Exhibit 1008 under FRE 801-802 (hearsay) and FRE 901 (authentication). In particular, Exhibit 1008 is not testimony. Petitioner offers statements in this document, namely the alleged date shown thereon, to prove the truth of the matter asserted (date of public accessibility). *See, e.g.*, Pet. iv, 64-65. Petitioner has not established Exhibit 1008 as self-authenticating, nor has Petitioner authenticated this document as required by FRE 901. *See, e.g.*, *TRW Automotive U.S. LLC*, Paper 25 at 10-12 (granting motion to exclude exhibit that was not self-authenticating and was not shown to be authentic).

Dated: November 5, 2021

Respectfully submitted,

/John Scheibeler/
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