

IPR2021-01303
U.S. Patent No. 8,688,028

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HYUNDAI MOTOR AMERICA,
Petitioner

v.

STRATOSAUDIO, INC.,
Patent Owner

IPR2021-01303
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 Hyundai Motor America (“Petitioner”). Patent Owner’s objections are based on the Federal Rules of Evidence (“FRE”) and relevant case law, as set forth below.

Exhibit 1002

Patent Owner objects to the admissibility of Exhibit 1002 under FRE 401-402 (relevance) and FRE 403 (probative value outweighed by prejudice, confusing of issues, wasting time). In particular, paragraphs of Exhibit 1002 are neither cited nor relied on in the Petition. *See, e.g.*, EX1002, ¶¶ 44-53, 62-67, 72-74, 131. Thus, portions of Exhibit 1002 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*, IPR2014-00680, Paper 57, at 27 (PTAB Sept. 25, 2015) (“Because Patent Owner does not explain where it cited Exhibits 2013, 2016, and 2900 in this proceeding, we grant Petitioner’s Motion to Exclude”); *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).

Patent Owner further objects to Exhibit 1002 to the extent it relies on any exhibit that is later deemed inadmissible (including Exhibits 1022 and 1023, 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 at 1380-81; *SK Innovation Co., Ltd.*, Paper 57, at 27; *Shimano, Inc.*, Paper 40, at 27-28.

Exhibit 1022

Patent Owner objects to the admissibility of Exhibit 1022 under FRE 401-402 (relevance) and FRE 403 (probative value outweighed by prejudice, confusing of issues, wasting time). In particular, Petitioner does not rely on, cite, or refer to Exhibit 1022 in the Petition. Thus, Exhibit 1022 is irrelevant, or at least, its probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. *See, e.g., In re Nuvasive*, 842 F.3d at 1380-81; *SK Innovation Co., Ltd.*, Paper 57, at 27; *Shimano, Inc.*, Paper 40, at 27-28.

Exhibit 1023

Patent Owner objects to the admissibility of Exhibit 1023 under FRE 401-402 (relevance) and FRE 403 (probative value outweighed by prejudice, confusing

of issues, wasting time). In particular, Petitioner does not rely on, cite, or refer to Exhibit 1023 in the Petition. Thus, Exhibit 1023 is irrelevant, or at least, its probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. *See, e.g., In re Nuvasive*, 842 F.3d at 1380-81; *SK Innovation Co., Ltd.*, Paper 57, at 27; *Shimano, Inc.*, Paper 40, at 27-28.

Dated: February 4, 2022

Respectfully submitted,

/John Scheibeler/ (Electronically signed)
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