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Filed on behalf of: Arkema Inc. and Arkema France

By: Mark D. Sweet

Mark J. Feldstein

Erin M. Sommers

Charles W. Mitchell

FINNEGAN, HENDERSON, FARABOW,

GARRETT & DUNNER, L.L.P.

Telephone: 202-408-4000

Facsimile: 202-408-4400

E-mail: mark.sweet@finnegan.com; mark.feldstein@finnegan.com

erin.sommers@finnegan.com; charles.mitchell@finnegan.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARKEMA INC. AND ARKEMA FRANCE
Petitioner

v.

HONEYWELL INTERNATIONAL INC.
Patent Owner

PGR2016-00011
Patent No. 9,157,017

**PETITIONER'S REPLY TO PATENT OWNER'S OPPOSITION
PURSUANT TO 37 C.F.R. § 42.64(c)**

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Regulations

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I. Exhibits 2101-2103 and Exhibit 1057, Table 3, Are Not Admissible under FRE 703

Honeywell wrongly asserts that hearsay Exs. 2101-2103 and Ex. 1057 ¶¶ 30-33, including Table 3, are admissible under FRE 703. Paper 42 at 6-7. This rule does not apply to the present facts, and it does not mandate admission of hearsay even where applicable.

First, FRE 703 relates to *expert* testimony. But Dr. DesMarteau is, by his own repeated admissions, not an expert in lubricants. *E.g.*, Ex. 1178 at 37:2-11; *see also id.* at 15-18; Paper 31 at 13. His reliance on purported lubricant-refrigerant stability analyses in Ex. 2103 and Ex. 1057, Table 3 (*see* Ex. 2161, § VII.C) is thus beyond his expertise and beyond the scope of FRE 703. *Compare* FRE 703, *with* FRE 701. Even if considered under FRE 703, Exs. 2101-2103 are substantially opinion testimony and one expert cannot, as Dr. DesMarteau seeks to do, rely “upon the opinion of others who were not even qualified as experts, nor present at the trial.” *Mike’s Train House, Inc. v. Lionel, L.L.C.*, 472 F.3d 398, 409 (6th Cir. 2006) (quotations omitted); *see also Info-Hold, Inc. v. Muzak LLC*, No. 1:11-CV-283, 2013 WL 4482442, at *5 (S.D. Ohio Aug. 20, 2013), *aff’d in part, rev’d in part on other grounds*, 783 F.3d 1365, 1371 (Fed. Cir. 2015).

Second, Honeywell’s declarants have not established that “experts in the particular field would reasonably rely on those kinds of facts or data in forming an

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