

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KVK-TECH, INC. and
FLAT LINE CAPITAL, LLC,
Petitioners,

v.

SILVERGATE PHARMACEUTICALS, INC.,
Patent Owner.

Case PGR2017-00039
Patent 9,463,183

SILVERGATE'S FIRST SET OF OBJECTIONS
37 CFR §42.64(b)(1)

Exhibit 1002: Objections

The patent owner (“Silvergate”) objects to petitioner’s evidence, with reference to the Federal Rules of Evidence (FRE), as follows:

Exhibit 1003: Kibbe declaration

FRE402, 403: ¶¶32-48 of the declaration cited for grounds 1 and 2, which were not instituted; hence, these paragraphs are confusing, misleading, wasteful or needlessly cumulative.

FRE602, 701, 703: Dr. Kibbe is presented as an expert witness (Paper 1 at 12), but ¶¶49-54 and ¶84 contain what appears to be fact-witness testimony. To the extent that it is fact testimony, it lacks foundation. To the extent it is expert testimony, it lacks basis.

Exhibit 1004: Prosecution history

FRE402, 403: pages 166-69, 183-84, 195-96 are cited for grounds 1 and 2, which were not instituted; hence, these pages are confusing, misleading, wasteful or needlessly cumulative.

Exhibit 1005: Nahata

FRE402, 403: pages 397-98 are cited for grounds 1 and 2, which were not instituted; hence, these pages are confusing, misleading, wasteful or needlessly cumulative.

FRE802: pages 396 and 398 are offered to prove the truth of asserted

statements without qualifying for a hearsay exception.

Exhibit 1006: Beidel

FRE802: the exhibit is repeatedly offered to prove the truth of asserted statements without qualifying for a hearsay exception.

Exhibit 1007: Beidel Two

FRE802: the exhibit is repeatedly offered to prove the truth of asserted statements without qualifying for a hearsay exception.

Exhibit 1008: AAPS program

FRE802: the exhibit is repeatedly offered to prove the truth of asserted statements without qualifying for a hearsay exception.

Exhibit 1009: Nerurkar

FRE802: the exhibit is offered to prove the truth of an asserted statement without qualifying for a hearsay exception.

Exhibit 1010: Allen Sept. 2006

FRE802: the exhibit is offered to prove the truth of an asserted statement without qualifying for a hearsay exception.

Exhibit 1011: Allen July 2006

FRE802: the exhibit is offered to prove the truth of an asserted statement without qualifying for a hearsay exception.

Exhibit 1013: Naiazi

FRE802: the exhibit is repeatedly offered to prove the truth of asserted statements without qualifying for a hearsay exception.

Exhibit 1014: Tuse

FRE402, 403: pages 49-51 are cited for grounds 1 and 2, which were not instituted; hence, these pages are confusing, misleading, wasteful or needlessly cumulative.

FRE802: the exhibit is offered to prove the truth of an asserted statement without qualifying for a hearsay exception.

Exhibit 1015: European Pharmacopoeia

FRE402, 403: page 51 is cited for grounds 1 and 2, which were not instituted; hence, these pages are confusing, misleading, wasteful or needlessly cumulative.

FRE802: the exhibit is offered to prove the truth of an asserted statement without qualifying for a hearsay exception.

Exhibit 1016: Thompson

FRE402, 403: pages 69 and 72 are cited for grounds 1 and 2, which were not instituted; hence, these pages are confusing, misleading, wasteful or needlessly cumulative.

FRE802: the exhibit is repeatedly offered to prove the truth of asserted statements without qualifying for a hearsay exception.

Exhibit 1017: Glass

FRE802: the exhibit is offered to prove the truth of an asserted statement without qualifying for a hearsay exception.

Exhibit 1018: Harris

FRE802: the exhibit is repeatedly offered to prove the truth of asserted statements without qualifying for a hearsay exception.

Exhibit 1020: Rowe

FRE802: the exhibit is offered to prove the truth of an asserted statement without qualifying for a hearsay exception.

Exhibit 1022: Spreadsheet

FRE802: the exhibit is repeatedly offered to prove the truth of asserted statements without qualifying for a hearsay exception.

FRE901: the exhibit is not authenticated.

Exhibit 1025: Google search

FRE802: the exhibit is offered to prove the truth of an asserted statement without qualifying for a hearsay exception.

FRE901: the exhibit is not authenticated.

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