

STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JTEKT CORPORATION,
Petitioner,

v.

GKN AUTOMOTIVE LTD.,
Patent Owner.

Case IPR 2016-00046

U.S. Patent No. 8,215,440 B2

**PATENT OWNER'S NOTICE OF OBJECTIONS TO EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64**

Pursuant to 37 C.F.R. § 42.64(b), Patent Owner GKN Automotive Ltd. ("GKN") submits the following objections to evidence filed by Petitioner JTEKT Corporation ("JTEKT") on September 8, 2016 in support of Petitioners' Reply to Patent Owner's Response.

I. Exhibit 1008

GKN objects to the Second Declaration of Steven J. Becker (Exhibit 1008) on the following grounds:

- Paragraphs 6-11, 14-23, 29, and 31-35 make new arguments that are presented now for the first time and that do not respond to arguments raised in GKN's Patent Owner Response. In presenting these new arguments, these Paragraphs also refer to passages of the prior art that were not presented in the Petition. Exhibit 1008 is therefore improper under 37 C.F.R. § 42.23(b) ("A reply may only respond to arguments raised in the corresponding opposition, patent owner preliminary response, or patent owner response.")¹ Exhibit 1008 is therefore also improper under FRE 401-403 because they are not relevant to any issue raised in the Petition or Patent Owner's Response.

¹ JTEKT relies heavily on these new arguments throughout its Reply. Because the Reply is not evidence under 37 C.F.R. § 42.63, no objection to such Reply is required. GKN separately will be requesting a hearing with the Board to discuss striking or disregarding the new arguments and evidence that were not properly included in the petition and/or supplemented as required by 37 C.F.R. § 42.104 and/or 37 C.F.R. § 42.123, which deprived GKN of a full and fair opportunity to respond.

- Paragraphs 12-18, 20, 33 are relied on by JTEKT in its Reply, but the Reply does not include nearly the same degree of specificity as presented in these Paragraphs. Exhibit 1008 is therefore improper under 37 C.F.R. § 42.6(a)(3) (“Arguments must not be incorporated by reference from one document into another document.”).

II. Exhibits 1009, 1010, 1011, and 1013

GKN objects to Exhibits 1009, 1010, 1011, and 1013 on the following grounds:

- These exhibits are improper under FRE 401-403 because they are not relevant to any issue raised in the Petition or Patent Owner’s Response, and their probative value is substantially outweighed by the unfair prejudice and confusion of issues that arise from their introduction at the reply stage in this compressed proceeding.
- These exhibits also constitute improper and untimely supplemental evidence under 37 C.F.R. § 42.123.

Dated: September 15, 2016

Respectfully submitted,
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Certificate of Service

The undersigned hereby certifies that on September 15, 2016 the foregoing
PATENT OWNER'S NOTICE OF OBJECTIONS TO EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64, including any attachments and exhibits, was
served upon the following parties by electronic mail at
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