

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JTEKT CORPORATION

Petitioner,

v.

GKN AUTOMOTIVE LTD.

Patent Owner.

Case IPR2016-00046

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

PETITIONER'S OBJECTIONS TO EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner JTEKT Corporation (“Petitioner” or “JTEKT”) serves the following objections pursuant to 37 C.F.R. § 42.64(b)(1) and the Federal Rules of Evidence (“FRE”) to evidence submitted by Patent Owner GKN Automotive Ltd. (“GKN”) with their Patent Owner Preliminary Response filed in answer to the *inter partes* review petition (“Petition”) of U.S. Patent No. 8,215,440 (“the ‘440 patent”). These objections are timely presented as they are served and submitted within ten business days of the decision to institute trial on March 25, 2016. (*See* Paper No. 7.)

I. IDENTIFICATION OF CHALLENGED EVIDENCE AND GROUNDS FOR OBJECTIONS

A. Exhibit 2001

JTEKT objects to Exhibit 2001 because GKN has not proven that Exhibit 2001 is relevant to this proceeding. Exhibit 2001 appears to be dated December 15, 2014, and the ‘440 patent has priority dates from 2008. Accordingly, GKN has not proven that Exhibit 2001 is relevant as of the earliest May 6, 2008 priority date.

JTEKT objects to Exhibit 2001 under FRE 402 and FRE 403 because it is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this compressed proceeding with issues irrelevant to patentability and potentially prejudicial to JTEKT. JTEKT also objects under FRE 901 because Exhibit 2001 has not been authenticated and is not self-authenticating under FRE

902. No testimony or other evidence was presented to support a finding that the item is what the proponent claims it is. Additionally, this exhibit is inadmissible hearsay under FRE 802.

B. Exhibit 2002

JTEKT objects to Exhibit 2002 because GKN has not proven that Exhibit 2002 is relevant to this proceeding. Exhibit 2002 appears to be dated August 28, 2012, and the '440 patent has priority dates from 2008. Accordingly, GKN has not proven that Exhibit 2002 is relevant as of the earliest May 6, 2008 priority date.

JTEKT objects to Exhibit 2002 under FRE 402 and FRE 403 because it is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this compressed proceeding with issues irrelevant to patentability and potentially prejudicial to JTEKT. JTEKT also objects under FRE 901 because Exhibit 2002 has not been authenticated and is not self-authenticating under FRE 902. No testimony or other evidence was presented to support a finding that the item is what the proponent claims it is. Additionally, this exhibit is inadmissible hearsay under FRE 802.

C. Exhibit 2003

JTEKT objects to Exhibit 2003 because GKN has not proven that Exhibit 2003 is relevant to this proceeding. Exhibit 2003 appears to be dated 2009, and the

'440 patent has priority dates from 2008. Accordingly, GKN has not proven that Exhibit 2003 is relevant as of the earliest May 6, 2008 priority date.

JTEKT objects to Exhibit 2003 under FRE 402 and FRE 403 because it is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this compressed proceeding with issues irrelevant to patentability and potentially prejudicial to JTEKT. JTEKT also objects under FRE 901 because Exhibit 2003 has not been authenticated and is not self-authenticating under FRE 902. No testimony or other evidence was presented to support a finding that the item is what the proponent claims it is. Additionally, this exhibit is inadmissible hearsay under FRE 802.

D. Exhibit 2004

JTEKT objects to Exhibit 2004 because GKN has not proven that Exhibit 2004 is relevant to this proceeding. Exhibit 2004 appears to be dated September, 2009, and the '440 patent has priority dates from 2008. Accordingly, GKN has not proven that Exhibit 2004 is relevant as of the earliest May 6, 2008 priority date.

JTEKT objects to Exhibit 2004 under FRE 402 and FRE 403 because it is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this compressed proceeding with issues irrelevant to patentability and potentially prejudicial to JTEKT. Additionally, this exhibit is inadmissible hearsay under FRE 802.

E. Exhibit 2005

JTEKT objects to Exhibit 2005 because GKN has not proven that Exhibit 2005 is relevant to this proceeding. Exhibit 2005 is a website obtained from the Internet in January, 2016, and the '440 patent has priority dates from 2008. Accordingly, GKN has not proven that Exhibit 2005 is relevant as of the earliest May 6, 2008 priority date.

JTEKT objects to Exhibit 2005 under FRE 402 and FRE 403 because it is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this compressed proceeding with issues irrelevant to patentability and potentially prejudicial to JTEKT. JTEKT also objects under FRE 901 because Exhibit 2005 has not been authenticated and is not self-authenticating under FRE 902. No testimony or other evidence was presented to support a finding that the item is what the proponent claims it is. Additionally, this exhibit is inadmissible hearsay under FRE 802.

F. Exhibit 2006

JTEKT objects to Exhibit 2006 because GKN has not proven that Exhibit 2006 is relevant to this proceeding. Exhibit 2006 is a website obtained from the Internet in January, 2016, and the '440 patent has priority dates from 2008. Accordingly, GKN has not proven that Exhibit 2006 is relevant as of the earliest May 6, 2008 priority date.

JTEKT objects to Exhibit 2006 under FRE 402 and FRE 403 because it is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this compressed proceeding with issues irrelevant to patentability and potentially prejudicial to JTEKT. JTEKT also objects under FRE 901 because Exhibit 2006 has not been authenticated and is not self-authenticating under FRE 902. No testimony or other evidence was presented to support a finding that the item is what the proponent claims it is. Additionally, this exhibit is inadmissible hearsay under FRE 802.

G. Exhibit 2007

JTEKT objects to Exhibit 2007 because GKN has not proven that Exhibit 2007 is relevant to this proceeding. Exhibit 2007 appears to be dated November, 2012, and the '440 patent has priority dates from 2008. Accordingly, GKN has not proven that Exhibit 2007 is relevant as of the earliest May 6, 2008 priority date.

JTEKT objects to Exhibit 2007 under FRE 402 and FRE 403 because it is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this compressed proceeding with issues irrelevant to patentability and potentially prejudicial to JTEKT. JTEKT also objects under FRE 901 because Exhibit 2007 has not been authenticated and is not self-authenticating under FRE 902. No testimony or other evidence was presented to support a finding that the

item is what the proponent claims it is. Additionally, this exhibit is inadmissible hearsay under FRE 802.

H. Exhibit 2008

JTEKT objects to Exhibit 2008 because GKN has not proven that Exhibit 2008 is relevant to this proceeding. Exhibit 2008 appears to be dated 2015, and the '440 patent has priority dates from 2008. Accordingly, GKN has not proven that Exhibit 2008 is relevant as of the earliest May 6, 2008 priority date.

JTEKT objects to Exhibit 2008 under FRE 402 and FRE 403 because it is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this compressed proceeding with issues irrelevant to patentability and potentially prejudicial to JTEKT. Additionally, this exhibit is inadmissible hearsay under FRE 802.

I. Exhibit 2009

JTEKT objects to Exhibit 2009 because GKN has not proven that Exhibit 2009 is relevant to this proceeding. Exhibit 2009 appears to be dated September, 29, 2015, and the '440 patent has priority dates from 2008. Accordingly, GKN has not proven that Exhibit 2009 is relevant as of the earliest May 6, 2008 priority date.

JTEKT objects to Exhibit 2009 under FRE 402 and FRE 403 because it is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this compressed proceeding with issues irrelevant to patentability

and potentially prejudicial to JTEKT. JTEKT also objects under FRE 901 because Exhibit 2009 has not been authenticated and is not self-authenticating under FRE 902. No testimony or other evidence was presented to support a finding that the item is what the proponent claims it is. Additionally, this exhibit is inadmissible hearsay under FRE 802.

J. Exhibit 2010

JTEKT objects to Exhibit 2010 because GKN has not proven that Exhibit 2010 is relevant to this proceeding. Exhibit 2010 appears to be dated 2010, and the '440 patent has priority dates from 2008. Accordingly, GKN has not proven that Exhibit 2010 is relevant as of the earliest May 6, 2008 priority date.

JTEKT objects to Exhibit 2010 under FRE 402 and FRE 403 because it is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this compressed proceeding with issues irrelevant to patentability and potentially prejudicial to JTEKT. JTEKT also objects under FRE 901 because Exhibit 2010 has not been authenticated and is not self-authenticating under FRE 902. No testimony or other evidence was presented to support a finding that the item is what the proponent claims it is. Additionally, this exhibit is inadmissible hearsay under FRE 802.

K. Exhibit 2011

JTEKT objects to Exhibit 2011 because GKN has not proven that Exhibit 2011 is relevant to this proceeding. Exhibit 2011 is a website retrieved from the Internet on January 27, 2016, and the '440 patent has priority dates from 2008. Accordingly, GKN has not proven that Exhibit 2011 is relevant as of the earliest May 6, 2008 priority date.

JTEKT objects to Exhibit 2011 under FRE 402 and FRE 403 because it is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this compressed proceeding with issues irrelevant to patentability and potentially prejudicial to JTEKT. JTEKT also objects under FRE 901 because Exhibit 2011 has not been authenticated and is not self-authenticating under FRE 902. No testimony or other evidence was presented to support a finding that the item is what the proponent claims it is. Additionally, this exhibit is inadmissible hearsay under FRE 802.

L. Exhibit 2012

JTEKT objects to Exhibit 2012 under FRE 402 and FRE 403 because it is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this compressed proceeding. JTEKT also objects under FRE 901 because Exhibit 2012 has not been authenticated and is not self-authenticating under FRE 902. No testimony or other evidence was presented to support a

finding that the item is what the proponent claims it is. Additionally, this exhibit is inadmissible hearsay under FRE 802.

M. Exhibit 2013

JTEKT objects to Exhibit 2013 because GKN has not proven that Exhibit 2013 is relevant to this proceeding. Exhibit 2013 appears to be dated 2012, and the '440 patent has priority dates from 2008. Accordingly, GKN has not proven that Exhibit 2012 is relevant as of the earliest May 6, 2008 priority date.

JTEKT objects to Exhibit 2012 under FRE 402 and FRE 403 because it is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this compressed proceeding with issues irrelevant to patentability and potentially prejudicial to JTEKT. JTEKT also objects under FRE 901 because Exhibit 2012 has not been authenticated and is not self-authenticating under FRE 902. No testimony or other evidence was presented to support a finding that the item is what the proponent claims it is. Additionally, this exhibit is inadmissible hearsay under FRE 802 and incomplete under FRE 106 (for example, it is unclear whether all of Chapter 2 has been provided).

N. Exhibit 2014

JTEKT objects to Exhibit 2014 because GKN has not proven that Exhibit 2014 is relevant to this proceeding. Exhibit 2014 is a website obtained from the Internet in January, 2016, and the '440 patent has priority dates from 2008.

Accordingly, GKN has not proven that Exhibit 2014 is relevant as of the earliest May 6, 2008 priority date.

JTEKT objects to Exhibit 2014 under FRE 402 and FRE 403 because it is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this compressed proceeding with issues irrelevant to patentability and potentially prejudicial to JTEKT. JTEKT also objects under FRE 901 because Exhibit 2014 has not been authenticated and is not self-authenticating under FRE 902. No testimony or other evidence was presented to support a finding that the item is what the proponent claims it is. Additionally, this exhibit is inadmissible hearsay under FRE 802.

Respectfully submitted,
Oblon, McClelland, Maier &
Neustadt, LLP

Dated: April 8, 2016

/W. Todd Baker/
W. Todd Baker
(Reg. No. 45,265)
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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies service of PETITIONER'S OBJECTIONS TO EVIDENCE on the counsel of record for the Petitioner by filing this document through the Patent Review Processing System as well as delivering a copy via electronic mail to the following address:

Sangeeta G. Shah
Kristin L. Murphy
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Dated: April 8, 2016

/W. Todd Baker/
W. Todd Baker (Reg. No. 45,265)