

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ATTENDS HEALTHCARE PRODUCTS, INC.,  
Petitioner,

v.

PAUL HARTMANN AG,  
Patent Owner.

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IPR2020-01479  
Patent 8,771,249 B2

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**PETITIONER'S OBJECTIONS TO PATENT OWNER'S PRELIMINARY  
RESPONSE EVIDENCE**

As set forth below, Petitioner objects to certain evidence that was served concurrently with Patent Owner's Preliminary Response ("POPR").

<b>Ex. Number and Patent Owner's Description</b>	<b>Objections</b>
2001. <i>Medline Indus., Inc. v. PAUL HARTMANN AG</i> , IPR2013-00173, Ex. 2005 (Jezzi Dep. Tr.).	<p><u>Impermissible Prior Statement Evidence.</u> Fed. R. Evid. 613(b). Patent Owner offers this exhibit as alleged evidence of prior inconsistent statements from Mr. Jezzi regarding Karami '772's retaining forces without giving Mr. Jezzi an opportunity to explain or deny the statements. POPR at 32-33 (citing Ex. 2001 at 157:9-158:14). The exhibit is thus not admissible.</p> <p><u>Hearsay.</u> Fed. R. Evid. 801(c) and 802. Patent Owner relies on statements in this exhibit to prove the truth of the matter purportedly asserted by those statements: e.g., that one cannot "tell whether the retaining forces in Karami '772 are sufficient between the closure means and the main part to hold the diaper on a user." POPR at 32-33; Ex. 2001 at 157:9-158:14. These statements are accordingly hearsay.</p> <p>Patent Owner has not offered evidence sufficient to demonstrate that these statements are not hearsay or fall within any hearsay exception. For instance, the statements do not meet the requirements of Fed. R. Evid. 801(d)(1) because: (1) Mr. Jezzi has not been subject to cross-examination about the statements; and (2) the statements, at least because they address Karami '772's teachings in isolation, are not inconsistent with Mr. Jezzi's testimony regarding those teachings in view of Karami '626 (<i>see</i> POPR at 33 (recognizing this distinction)).</p>

Dated: March 9, 2021

Respectfully submitted,  
/Eagle H. Robinson/  
 Eagle H. Robinson (Reg. No. 61,361)

*Lead Counsel for Petitioner*

## **CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on March 9, 2021, a complete copy of Petitioner's Objections to Patent Owner's Preliminary Response Evidence was served on Lead and Backup Counsel for Patent Owner via email (by consent) to:

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