



**Brooks Kushman P.C.**

1000 Town Center, Twenty-Second Floor  
Southfield, Michigan 48075-1238 USA  
Tel (248) 358-4400 | Fax (248) 358-3351

[www.BrooksKushman.com](http://www.BrooksKushman.com)

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**Via E-Mail: [jfitzsimmons-PTAB@sternekessler.com](mailto:jfitzsimmons-PTAB@sternekessler.com)**

Jason A. Fitzsimmons  
Sterne, Kessler, Goldstein & Fox P.L.L.C.  
1100 New York Avenue, N.W.  
Washington, D.C. 20005-3934

**Re: Volkswagen Group of America, Inc., v. Yechezkal Evan Spero  
Case IPR2022-01586  
Our File No. TRCH0110IPR**

Dear Mr. Fitzsimmons:

This letter is in response to the notice we received on June 8, 2023 in which you objected to certain evidence submitted in support of the Patent Owner's Preliminary Response. As outlined below, we disagree with your arguments concerning the deficiency of the evidence.

With regard to Exhibits 2001 and 2002, the opinions provided in Dr. Turk's Declaration were based upon: (1) his qualifications and professional experience and (2) the documents Dr. Turk cited and considered. (Ex. 2001, ¶¶4-19, Ex. 2002.) Dr. Turk is a testifying expert pursuant to FRE 703 and he may therefore express opinions based on facts or data he has been made aware of or personally observed. To the extent you are implying that Dr. Turk's education or experience does not satisfy Petitioner's proposed level of skill in the art, then please review Petitioner's Expert's qualifying statement: "a higher level of education or skill might make up for less experience and vice versa." (Ex. 1003, ¶42.) Your objections under FRE 702 and 703 are therefore inapplicable to Dr. Turk's expert testimony. See FRE 702 and 703.

Dr. Turk's Declaration is relevant under FRE 401 and 402 because it identifies and explains technical issues that Petitioner's Expert failed to explain and therefore it has a tendency to make a fact more or less probable than it would be without the evidence; and the fact is of consequence in determining the action. Dr. Turk's Declaration is admissible relevant evidence under FRE 402, as it does not contradict the Constitution, statutes, or rules. Accordingly,

your objections under FRE 401, 402, and 403 are also inapplicable to Dr. Turk's expert testimony.

Regarding Ex. 2003, the '500 IPR Petition is relevant under FRE 401 with respect to Patent Owner's parallel petition argument because it includes substantial overlap with the Petition as it challenges many overlapping claims with overlapping art. Ex. 2003 is admissible and relevant evidence under FRE 402, as it does not contradict the Constitution, statutes, or rules. Further, Patent Owner refers to this Exhibit as "the '500 IPR Petition" to avoid any potential confusion with the Petition. Accordingly, your objections under FRE 401, 402, and 403 are also inapplicable to Ex. 2003.

Ex. 2003 includes markings i.e., "IPR2022-01500" establishing that is available from governmental agencies such as the PTAB P-TACTs website. See *Weingartner Lumber & Supply Co. v. Kadant Composites, LLC*, 2010 WL 996473 (E.D. Ky. 2010) ("Publicly maintained records downloaded from a government website would likely be self-authenticating under Fed.R.Evid. 902(5)."). The Petition references the '500 Petition in its Mandatory Notices. Petition at 95. Pursuant to 37 C.F.R. § 11.18(b)(1), Petitioner's attorney signed the Petition thereby authenticating the '500 IPR Petition to the USPTO.

Regarding Ex. 2005, the Comparison of Harbers Document is relevant under FRE 401 with respect to Patent Owner's parallel petition argument because it illustrates the substantial overlap between WIPO Patent Publication No. 2001/001038 to Harbers et al. (Ex. 1011) and U.S. Patent No. 6,406,172 to Harbers (Ex. 2004) applied in the related '500 IPR Petition. Ex. 2005 is admissible and relevant evidence under FRE 402, as it does not contradict the Constitution, statutes, or rules. Ex. 1011 and Ex. 2004 include markings establishing that they are available from governmental agencies such as the USPTO and WIPO. See *Weingartner Lumber & Supply Co. v. Kadant Composites, LLC*, 2010 WL 996473 (E.D. Ky. 2010) ("Publicly maintained records downloaded from a government website would likely be self-authenticating under Fed.R.Evid. 902(5)."). Accordingly, your objections under FRE 403 are also inapplicable to Ex. 2003.

Very truly yours,

**BROOKS KUSHMAN P.C.**



Andrew B. Turner

ABT/fea  
Enclosure