

U.S. Pat. No. 8,092,345

IPR2015-00698

Petitioner's Responses to Patent Owner's Objections to Admissibility of Evidence

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Under Armour, Inc.,  
Petitioner,

v.

adidas AG,  
Patent Owner

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Case No. IPR2015-00698

Patent No. 8,092,345

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**PETITIONER'S RESPONSES TO PATENT OWNER'S OBJECTIONS TO  
ADMISSIBILITY OF EVIDENCE**

Petitioner Under Armour, Inc. is in receipt of Patent Owner's Objections To Admissibility Of Evidence Served With Patent Owner Under Armour Inc.'s Petition For Inter Partes Review dated August 28, 2015 in case IPR2015-00698.

With respect to each of Patent Owner's objections, Patent Owner has failed to comply with 37 C.F.R. § 42.64(b), which states that "[t]he objection must identify the grounds for the objection with sufficient particularity to allow correction in the form of supplemental evidence." For example, the Patent Owner contends that the expert declaration is inadmissible because "the exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence." This statement simply copies the language of FRE 403 without more. Patent Owner must provide with sufficiently particularity how the expert declaration is unfairly prejudicial, confuses the issues, creates undue delay, wastes time, and needlessly presents cumulative evidence such that Petitioner can correct deficiencies in the expert declaration, to the extent that it can, with supplemental evidence. Each of Patent Owner's objections suffers this deficiency.

Petitioner is available to meet and confer regarding each objection raised by Patent Owner. Petitioner requests that Patent Owner be prepared during the meet

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and confer to identify the grounds for each objection "with sufficient particularity to allow correction in the form of supplemental evidence" per 37 C.F.R. § 42.64(b).

Dated: September 9, 2015

Respectfully submitted,

*/s/ Brian Ferguson*

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Brian E. Ferguson

Lead Counsel for Petitioner

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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on September 9, 2015, the foregoing **PETITIONER'S RESPONSES TO PATENT OWNER'S OBJECTIONS TO ADMISSIBILITY OF EVIDENCE** was served via electronic mail, upon the following:

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*/s/ Brian Ferguson*

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