

U.S. Pat. No. 8,092,345
IPR2015-00698
Patent Owner's Objections to
Admissibility of Evidence

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Under Armour Inc.
Petitioner

v.

adidas AG,
Patent Owner

Case No. IPR2015-00698

Patent No. 8,092,345

**PATENT OWNER'S OBJECTIONS TO ADMISSIBILITY OF EVIDENCE
SERVED WITH PATENT OWNER UNDER ARMOUR INC.'S
PETITION FOR *INTER PARTES* REVIEW**

Pursuant to 37 C.F.R. § 42.64(b), Patent Owner objects as follows to the
admissibility of evidence served with Petitioner Under Armour Inc.'s Petition for
Inter Partes Review of U.S. Patent No. 8,092,345.

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Evidence	Objections
Exhibit 1002	<p>FRE 402: the exhibit is not relevant to any ground upon which trial was instituted.</p> <p>FRE 403: 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.</p>
Exhibit 1003	<p>FRE 402: the exhibit is not relevant to any ground upon which trial was instituted. <i>See, e.g.</i>, Institution decision, IPR2015-00698, paper 9, at pp. 17-18 (“FURTHER ORDERED that no other ground of unpatentability alleged in the Petitioner for any claim is authorized for this <i>inter partes</i> review”).</p> <p>FRE 403: 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.</p> <p>FRE 602: Paragraphs 10-12, 13-15, 16-18, and 19-170 of the exhibit includes assertions for which evidence has not been</p>

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	<p>introduced sufficient to show that he witness has personal knowledge of the matters asserted</p> <p>FRE 701/702/703: Paragraphs 10-12, 13-15, 16-18, and 19-170 of the exhibit include opinions that are not admissible under FRE 701, 702, or 703, or <i>Daubert v. Merrell Dow Pharms., Inc.</i>, 509 U.S. 579 (1993).</p> <p>FRE 801/802: Paragraphs 10-12, 13-15, 16-18, and 19-170 of the exhibit includes statements that are inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein.</p> <p>FRE 805: the exhibit contains improper hearsay within hearsay.</p> <p>FRE 1006: the exhibit provides an improper summary of the evidence.</p> <p>37 C.F.R. § 42.65: the exhibit includes expert testimony that does not disclose the underlying facts or data and improper discussion of patent law.</p>
Exhibit 1004	Lack of Foundation: Petitioner has not provided sufficient explanation of what the exhibit is or what it allegedly shows.

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	<p>FRE 802: the exhibit is inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein.</p>
Exhibit 1005	<p>Lack of Foundation: Petitioner has not provided sufficient explanation of what the exhibit is or what it allegedly shows.</p> <p>FRE 802: the exhibit is inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein.</p>
Exhibit 1006	<p>Lack of Foundation: Petitioner has not provided sufficient explanation of what the exhibit is or what it allegedly shows. Additionally, Petitioner has not shown that the exhibit is prior art.</p> <p>FRE 402: the exhibit is not relevant to any ground upon which trial was instituted. <i>See, e.g.</i>, Institution decision, IPR2015-00698, paper 9, at pp. 17-18 (“FURTHER ORDERED that no other ground of unpatentability alleged in the Petitioner for any claim is authorized for this <i>inter partes</i> review”).</p> <p>FRE 403: 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,</p>

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Evidence	Objections
	<p>wasting time, or needlessly presenting cumulative evidence.</p> <p>FRE 802: the exhibit is inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein.</p> <p>FRE 901: Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.</p>
Exhibit 1007	<p>Lack of Foundation: Petitioner has not provided sufficient explanation of what the exhibit is or what it allegedly shows.</p> <p>FRE 402: the exhibit is not relevant to any ground upon which trial was instituted. <i>See, e.g.,</i> Institution decision, IPR2015-00698, paper 9, at pp. 17-18 (“FURTHER ORDERED that no other ground of unpatentability alleged in the Petitioner for any claim is authorized for this <i>inter partes</i> review”).</p> <p>FRE 403: 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.</p> <p>FRE 802: the exhibit is inadmissible hearsay if offered to prove</p>

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