

DOCKET NO: 0286868.00189

IPR2013-00620

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT: 6,702,821

INVENTORS: PETER M. BONUTTI

FILED: AUGUST 28, 2001

ISSUED: MARCH 9, 2004

TITLE: INSTRUMENTATION FOR MINIMALLY INVASIVE JOINT
REPLACEMENT AND METHODS FOR USING SAME

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

FEE AUTHORIZATION

The undersigned authorizes the Office to charge \$23,000 to Deposit Account No. 080219 for the fee set forth in 37 C.F.R. § 42.15(a) for this Petition for Inter Partes Review. The undersigned further authorizes payment for any additional fees that might be due in connection with this Petition to be charged to the above-referenced Deposit Account.

/Michael Smith/
Michael H. Smith
Registration No. 71,190

DOCKET NO.: 0286868-00189

Filed on behalf of Smith & Nephew, Inc.

By: David L. Cavanaugh, Reg. No. 36,476
Michael H. Smith, Reg. No. 71,190
Wilmer Cutler Pickering Hale and Dorr LLP
1875 Pennsylvania Ave., NW
Washington, DC 20006
Tel: (202) 663-6000
Email: David.Cavanaugh@wilmerhale.com
MichaelH.Smith@wilmerhale.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SMITH & NEPHEW, INC.
Petitioner

v.

Patent Owner of
U.S. Patent No. 6,702,821 to Peter M. Bonutti

IPR Trial No. TBD

**PETITION FOR *INTER PARTES* REVIEW OF
U.S. PATENT NO. 6,702,821
UNDER 35 U.S.C. § 312 AND 37 C.F.R. § 42.104**

TABLE OF CONTENTS

I. MANDATORY NOTICES 1

 A. Real Party-in-Interest 1

 B. Related Matters 1

 C. Counsel..... 1

 D. Service Information..... 2

II. CERTIFICATION OF GROUNDS FOR STANDING 2

III. OVERVIEW OF CHALLENGE AND RELIEF REQUESTED 2

 A. Prior Art Patents and Printed Publications..... 2

 B. Grounds for Challenge 4

IV. LEGAL PRINCIPLES..... 4

V. CLAIM CONSTRUCTION 6

VI. OVERVIEW OF KNEE ANATOMY AND KNEE REPLACEMENT 8

VII. SUMMARY OF THE '821 PATENT AND RELEVANT FILE HISTORY 17

 A. The Challenged Claim of the '821 Patent..... 17

 B. Summary of Portions of the Specification Related to Challenged Claim..... 19

 C. The Effective Filing Date of the '821 Issued Claims 22

 D. Summary of the Prosecution History of the '821 Patent 22

VIII. THE PRIOR ART RENDERS THE CHALLENGED CLAIM UNPATENTABLE..... 23

 A. The References..... 24

1.	Turner.....	24
2.	Ranawat.....	25
3.	Scorpio	27
4.	Delp '018.....	28
5.	Lackey '803.....	29
IX.	IDENTIFICATION OF HOW THE CHALLENGED CLAIMS ARE UNPATENTABLE.....	30
A.	Independent Claim 1	30
1.	Claim 1 is Anticipated by Turner	30
2.	Claim 1 is Obvious Over Turner.....	36
3.	Claim 1 is Anticipated by Ranawat	37
4.	Claim 1 is Obvious Over Ranawat	42
5.	Claim 1 is Obvious Over Scorpio in View of Delp '018	43
6.	Claim 1 is Obvious Over Lackey '803 in View of Delp '018.....	53
X.	CONCLUSION	60

TABLE OF AUTHORITIES

	Page(s)
FEDERAL CASES	
<i>Graham v. John Deere Co.</i> , 383 U.S. 1 (1966).....	5
<i>In re ICON Health & Fitness, Inc.</i> , 496 F.3d 1374 (Fed. Cir. 2007)	6
<i>In re Schreiber</i> , 128 F.3d 1473 (Fed. Cir. 1997)	4
<i>KSR International Co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007).....	5, 6
<i>Rockwell Int’l Corp. v. United States</i> , 147 F.3d 1358 (Fed. Cir. 1998)	5
STATUTES	
35 U.S.C. § 102.....	4
35 U.S.C. § 102(b)	3, 4
35 U.S.C. § 103	4, 5
35 U.S.C. § 112.....	7
35 U.S.C. § 314(a)	4
OTHER AUTHORITIES	
Rule 42.22(a)(1).....	2
Rule 42.100(b)	6
Rule 42.104(a).....	2
Rule 42.104(b)(1)-(2).....	2

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.