

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SMITH & NEPHEW, INC.,
WRIGHT MEDICAL GROUP, INC., and
WRIGHT MEDICAL TECHNOLOGY, INC.,
Petitioners,

v.

BONUTTI SKELETAL INNOVATIONS LLC,
Patent Owner.

Case IPR2013-00629, Consolidated
Patent 7,806,896 B1

Before WILLIAM V. SAINDON, MICHAEL R. ZECHER, and
RICHARD E. RICE, *Administrative Patent Judges*.

ZECHER, *Administrative Patent Judge*.

ORDER
Oral Argument
37 C.F.R. § 42.70

On February 28, 2014, we instituted an *inter partes* review only as to claim 1 of U.S. Patent No. 7,806,896 B1 (“the ’896 patent”). IPR2013-00629, Paper 10. On June 2, 2014, we instituted an *inter partes* review only as to claims 1 and 40 of the ’896 patent. IPR2014-00354, Paper 10. On June 23, 2014, Patent Owner filed a notice indicating that it disclaimed claim 40 of the ’896 patent. IPR2014-00354, Paper 12. On June 30, 2014, we issued a decision granting the parties’ joint motion for joinder of Case IPR2013-00629 with Case IPR2014-00354. IPR2013-00629, Paper 18; IPR2014-00354, Paper 14. Both parties requested an oral argument pursuant to 37 C.F.R. § 42.70(a). IPR2013-00629, Papers 23 and 24. The requests are granted. The oral argument will commence at 1:00 PM Eastern Standard Time on October 27, 2014, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia, 22314.

We have reviewed each request for oral argument. Neither Petitioners nor Patent Owner requested a specific amount of oral argument time. We have determined that, because this consolidated proceeding concerns only claim 1 of the ’896 patent, one hour of oral argument time, in total, should be sufficient. Accordingly, each party will have thirty minutes to present its arguments. We recognize that, before we joined Case IPR2013-00629 and Case IPR2014-00354, Petitioners were originally two separate entities—namely, (1) Smith & Nephew, Inc. from Case IPR2013-00629; and (2) Wright Medical Group, Inc. and Wright Medical Technology, Inc. from Case IPR2014-00354. Petitioners, however, are allotted only thirty minutes of oral argument, in total, even if one entity wishes to argue separately from the other entity.

Petitioners bear the ultimate burden of proof that claim 1 of the ’896 patent is unpatentable based on the grounds of unpatentability instituted in this consolidated proceeding. Therefore, Petitioners will proceed first to present their

case as to claim 1 of the '896 patent and the grounds of unpatentability instituted in this consolidated proceeding. Petitioners may reserve rebuttal time. Thereafter, Patent Owner will respond to Petitioners' case. After that, Petitioners will make use of their rebuttal time to respond to Patent Owner's case.

The hearing will be open to the public for in-person attendance. In-person attendance will be accommodated on a first-come first-serve basis. We will provide a court reporter for the hearing and the reporter's transcript will constitute the official record of the hearing.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served no later than five business days before the hearing. They shall be filed with us no later than three business days prior to the hearing. The parties must initiate a conference call with us at least two business days prior to the hearing to resolve any dispute over the propriety of each party's demonstrative exhibits. For guidance on what constitutes an appropriate demonstrative exhibit, the parties are directed to *CBS Interactive Inc., v. Helferich Patent Licensing, LLC*, IPR2013-00033 (PTAB October 23, 2013), Paper 118.

We expect lead counsel for each party to be present at oral hearing, although any backup counsel may make the actual presentation, in whole or in part. If lead counsel for any party is unable to attend the oral argument, we should be notified via a joint telephone conference call no later than two business days prior to the oral argument to discuss the matter.

Requests for audio-visual equipment are to be made at least five business days in advance of the hearing date. The request should be sent to Trials@uspto.gov. If the request is not received timely, the equipment may not be available on the day of the hearing.

Case IPR2013-00629, Consolidated
Patent 7,806,896 B1

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