

Filed on behalf of: BONUTTI SKELETAL INNOVATIONS LLC Paper _____
Date: July 31, 2014

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZIMMER HOLDINGS,
INC. and ZIMMER, INC.
Petitioner,

v.

BONUTTI SKELETAL INNOVATIONS LLC

Patent Owner

Case: IPR2014-00191

Patent 7,837,736

**DECLARATION OF DR. SCOTT D. SCHOIFET, M.D. IN
SUPPORT OF PATENT OWNER RESPONSE**

Exhibit 2001

Introduction

I, Scott D. Schoifet, hereby declare under the penalty of perjury:

1. I reside at 19 Macclesfield Drive, Medford, NJ. 08055.

2. I am a board certified surgeon specializing in Total Joint Replacement and Adult Reconstructive Surgery in the practice of Reconstructive Orthopedics P.A.

3. I have been retained as an expert witness and asked to render opinions regarding certain matters pertaining to the inter partes review (IPR2014-00191) of the Bonutti U.S. Patent No. 7,837,736 (“the ‘736 patent”). I offer this declaration (“Declaration”) in support of Bonutti Skeletal’s Patent Owner Response.

4. I obtained my Medical Degree from Columbia University College of Physicians and Surgeons, New York, New York in 1983. I completed my General Surgery Residency at St. Vincent’s Hospital, New York, New York, in 1985; and my Orthopedic Residency at the Strong Memorial Hospital, University of Rochester, Rochester, New York in 1988. I completed my Fellowship in Total Joint Replacement and Adult Reconstructive Surgery at the Mayo Clinic in Rochester, Minnesota, in 1989, where I was appointed as an Instructor in Orthopedic Surgery. I obtained my board certification from the American Board of Orthopedic Surgery in 1991.

5. Shortly after completing my Fellowship, I entered private practice in September, 1989. I joined Reconstructive Orthopedics P.A. in May, 1990. I am an instructor for Minimally Invasive Surgery Quad Sparring for Partial and Total Knee Replacements, both nationally and internationally.

6. I have performed over 7,000 total knee and total hip replacements. I performed my first minimally invasive surgery (“MIS”) knee replacement in November of 2003 and have performed over 4,800 MIS total knee replacements since then. I currently average 700 MIS total knee replacements per year.

7. I am a fellow of the American College of Surgeons (FACS), and the American Academy of Orthopaedic Surgeons (FAAOS). I also am a member of the American Association of Hip and Knee Surgeons (AAHKS).

8. I have been a consultant for Stryker since 2004 and have been involved with surgeon teaching and product design. I designed supplemental instrumentation for Scorpio MIS instruments and assisted with the design of the entire Triathlon anterior referencing MIS instruments and technique guide. Most recently I have been on the design team for the new Triathlon Tritanium uncemented tibia.

9. A more detailed account of my work experience and qualifications is included in my curriculum vitae, which is attached as Appendix A to this Declaration.

10. In connection with my study of this matter and reaching the opinions stated herein, I have reviewed and considered:

(A) the '736 patent and its prosecution history before the United States Patent and Trademark Office, focusing on claims 21, 22, and 31;

(B) United States Patent No. 5,755,801 to Walker (“Walker”) (Exhibit 1002);

(C) the Institution Decision in IPR 2014-00191, paper 10 (February 28, 2014)(“Institution Decision”), focusing on the discussion of the instituted grounds of anticipation over Walker; and

(D) the Declaration Of Arthur G. Erdman, Ph.D. (Exhibit 1005), focusing on the discussion of Walker.

11. I understand that the Patent Office has instituted a review of the '736 patent based on the following ground: (i) Whether claims 15-22, 26-28 and 31-36 are anticipated by Walker. I have been instructed that for a claim to be anticipated, it must be shown by a preponderance of the evidence that each and every element of the claim must be found in a single prior art reference (in this case Walker), exactly as claimed.

12. I understand that claims 15-20, and 26-28 are no longer at issue in this proceeding.

13. For purposes of this Declaration, I have been asked to consider

whether claims 21, 22 and 31 are anticipated by Walker.

Priority Date

14. In preparing this Declaration, I have reviewed the '736 patent and considered each document cited herein, in light of the knowledge of a person of ordinary skill in the art in the field of knee arthroplasty, as it stood in 2002.

15. I have been instructed by counsel that the effective filing date of the '736 patent with respect to the subject matter of claims 15-22, 25-28 and 31-36 is July 8, 2002.

The Person Of Ordinary Skill In The Art

16. Based on my experience, it is my opinion that a person of ordinary skill in the art to which the '736 patent relates in 2002 would have an undergraduate degree in mechanical engineering or biomechanical engineering or graduate coursework covering topics relevant to biomechanical devices or orthopedics, or an orthopedic surgeon having experience performing knee arthroplasty or joint replacement procedures. In this Declaration, whenever I refer to a person of ordinary skill in the art, it is to be understood that I refer to a person of that skill in 2002.

General Background Of The '736 Patent

17. The '736 patent in general describes methods and surgical techniques for knee-joint replacement using MIS techniques, as well as designs for

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