

Filed on behalf of: BONUTTI SKELETAL INNOVATIONS LLC Paper
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZIMMER HOLDNGS,
INC. and ZIMMER, INC.
Petitioner,

v.

BONUTTI SKELETAL INNOVATIONS LLC

Patent Owner

Case: IPR2014-00321

Patent 7,806,896

Patent Owner hereby files this notice of election to waive the patent owner preliminary response. 37 C.F.R. § 42.107(b). This notice is timely, having been filed within three months of the January 16, 2014, Notice of Filing Date Accorded to Petition (Paper No. 4) . Id. Patent Owner understands that no adverse inference will be drawn from this election. Office Patent Trial Practice Guide, 77 Fed. Reg. 48756 at 48764 (August 14, 2012).

Patent Owner notes that United States Patent No. 7,806,896 (896 patent) is the subject of two other inter partes reviews: IPR 2013-00629, filed by Smith & Nephew, Inc. (“Smith & Nephew IPR”) on September 26, 2013, and IPR 2014-00354 filed by Wright Medical Group, Inc. et al. (“Wright IPR”) on January 3, 2014. The Wright IPR seeks review of claim 40, which is also the subject of the instant proceeding.

Patent Owner understands that joinder can only be requested by a party after the Board’s institution decision (Paper 11). Patent Owner reserves the right to do so.

However, the Board has broad authority under 37 CFR § 42.122 (a) and 35 U.S.C. § § 315(c, d) to manage proceedings, and should use that authority to consolidate or join the three IPRs-- or at minimum set the scheduled due dates of all three IPRs to coincide --in the interests of both efficiency for the Board, and to

mitigate the prejudice and increased cost to Patent Owner.

Respectfully submitted,

March 13, 2014

By: /Cary Kappel/

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of March 2014, a true and correct copy of the foregoing PATENT OWNER'S ELECTION was served by electronic mail and U.S. Post Office Express Mail, upon the following counsel of record for Petitioners ZIMMER HOLDINGS, INC. and ZIMMER, INC.:

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