

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MAKO SURGICAL CORP.,  
Petitioner,

v.

BLUE BELT TECHNOLOGIES, INC.1,  
Exclusive Licensee and Patent Owner.

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Case IPR2015-00629  
Patent 6,757,582 B2  
Case IPR2015-00630  
Patent 6,205,411 B1

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Held: April 7, 2016

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BEFORE: SALLY C. MEDLEY, KEVIN F. TURNER, and  
WILLIAM M. FINK, Administrative Patent Judges.

The above-entitled matter came on for hearing on Wednesday,  
April 7, 2016, commencing at 2:03 p.m., at the U.S. Patent and  
Trademark Office, 600 Dulany Street, Alexandria, Virginia.

Case IPR2015-00629, Patent 6,757,582 B2  
Case IPR2015-00630, Patent 6,205,411 B1

APPEARANCES:

ON BEHALF OF THE PETITIONER:

MATTHEW I. KREEGER, ESQUIRE  
WALTER WU, M.D.  
Morrison & Foerster LLP  
425 Market Street  
San Francisco, California 94105-2482

ON BEHALF OF PATENT OWNER:

BRIAN M. BUROKER, ESQUIRE  
STUART M. ROSENBERG, ESQUIRE  
Gibson, Dunn & Crutcher LLP  
1881 Page Mill Road  
Palo Alto, California 94304-1211

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P R O C E E D I N G S

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JUDGE MEDLEY: Good afternoon. This is the hearing for IPR2015-00629 and IPR2015-00630 between Petitioner Mako Surgical and Patent Owner Blue Belt Technologies. Per our March 17th order, each party will have 60 minutes of total time to present arguments.

Petitioner, you can proceed first, present your case and thereafter, Patent Owner, you can respond and also present arguments for your motion to amend with respect to the 630 case and each party may reserve rebuttal time.

Petitioner, during your rebuttal time, you may respond to all matters argued by the Patent Owner and, Patent Owner, during your rebuttal time you may respond only to Petitioner's arguments in connection with your motion to amend in the 630 case.

And I want to remind the parties that in the 630 case, we have confidential information that was filed under seal. This proceeding today, this hearing today, is public, so neither party requested that we keep anything confidential, so just to keep that in mind.

So at this time we'd like the parties to please introduce themselves beginning with Petitioner and who will argue for you.

1 MR. KREEGER: Thank you, Your Honor. Matthew  
2 Kreeger from Morrison & Foerster for the Petitioner and I'll argue  
3 in both cases.

4 MR. BUROKER: Yes, Brian Buroker from Gibson  
5 Dunn. With me is my colleague, Stuart Rosenberg, who you --  
6 who's backup counsel, and my colleague, Omar Amin, sitting at  
7 the counsel table with me and then in-house counsel, David  
8 Chambers, from Smith & Nephew is here.

9 In the course of these proceedings, as we notified the  
10 Board, Blue Belt Technologies was acquired by Smith & Nephew  
11 and that's why he is present. Thank you.

12 JUDGE MEDLEY: And you'll be presenting?

13 MR. BUROKER: I will be presenting, yes.

14 JUDGE MEDLEY: Okay. Great. Just give us one  
15 second.

16 Okay. You may proceed.

17 MR. KREEGER: Thank you, Your Honor. May my  
18 colleague approach, Your Honor?

19 JUDGE MEDLEY: Yes, please.

20 MR. KREEGER: Thank you.

21 Matthew Kreeger from Morrison & Foerster for the  
22 Petitioner and I want to begin with the '582 patent and I would  
23 like to reserve 20 minutes for 9rebuttall.

24 So in my argument about the '582 patent, I'm going to  
25 begin with a claim construction issue involving tracking and

1 tracking data and then I'm going to turn to various claims and  
2 establish why for each of them the claims are either anticipated or  
3 obvious according to the grounds laid out in the Institution  
4 Decision.

5           There's no motion to amend with respect to this claim --  
6 this patent.

7           All right. So the claim construction issue, if you look at  
8 the claims of the '582 patent, they're quite broad. So, for  
9 example, in Claim 1, which I'm showing here -- this is Exhibit  
10 1001 at column 20.

11           Claim 1 specifies a cutting tool, a workpiece with a  
12 target shape, a tracker to provide tracking data associated with the  
13 cutting tool and the workpiece, where the tracker has to have  
14 markers and a controller to control the cutting tool based on the  
15 tracking data, and that's it.

16           A key question that's arisen in this case is what does it  
17 mean when the patent uses the term track or tracking data. We  
18 submit that what's meant by that given its broadest reasonable  
19 interpretation is its ordinary meaning, which would be to observe  
20 the progress or to follow something, and there's nothing in the  
21 specification that disclaims that meaning or provides a more  
22 narrow definition and, in fact, we think the specification makes it  
23 clear that that broadest reasonable interpretation is correct.

24           So, for example, on column 13 of the patent, beginning  
25 at line 33, you'll see it says, tracking data -- as provided herein

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