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.
_____

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.

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

1   P R O C E E D I N G S

2   -   -   -   -   -

3   JUDGE MEDLEY: Good afternoon. This is the

4   hearing for IPR2015-00629 and IPR2015-00630 between

5   Petitioner Mako Surgical and Patent Owner Blue Belt

6   Technologies. Per our March 17th order, each party will have 60

7   minutes of total time to present arguments.

8   Petitioner, you can proceed first, present your case and

9   thereafter, Patent Owner, you can respond and also present

10 arguments for your motion to amend with respect to the 630 case

11 and each party may reserve rebuttal time.

12   Petitioner, during your rebuttal time, you may respond

13 to all matters argued by the Patent Owner and, Patent Owner,

14 during your rebuttal time you may respond only to Petitioner's

15 arguments in connection with your motion to amend in the 630

16 case.

17   And I want to remind the parties that in the 630 case,

18 we have confidential information that was filed under seal. This

19 proceeding today, this hearing today, is public, so neither party

20 requested that we keep anything confidential, so just to keep that

21 in mind.

22   So at this time we'd like the parties to please introduce

23 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 9rebuttal.

24   So in my argument about the '582 patent, I'm going to

25   begin with a claim construction issue involving tracking and

4

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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