

Filed on behalf of: Gold Standard Instruments, LLC

Paper _____

By: Joseph A. Hynds, Lead Counsel
R. Elizabeth Brenner-Leifer, Back-up Counsel
Steven Lieberman, Back-up Counsel
Jason M. Nolan, Backup Counsel
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
607 14th Street, N.W., Suite 800
Washington, DC 20005
Phone: 202-783-6040
Facsimile: 202-783-6031
Emails: jhynds@rothwellfigg.com
ebrenner@rothwellfigg.com
slieberman@rothwellfigg.com
jnolan@rothwellfigg.com

Date filed: June 3, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

US ENDODONTICS, LLC,
Petitioner,

v.

GOLD STANDARD INSTRUMENTS, LLC,
Patent Owner.

Case IPR2015-00632
Patent 8,727,773 B2

**PATENT OWNER'S OPPOSITION TO PETITIONER'S MOTION FOR
LEAVE TO ADD TWO REAL PARTIES IN INTEREST**

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Table of Contents

Table of Authorities ii

I. Introduction and Summary of Argument1

II. Undisputed evidence shows that Petitioner should have identified Edge Endo and Guidance as real parties in interest.....2

III. Petitioner’s motion should be denied, and its petition dismissed, because it has not shown good cause for its late identification of Edge Endo and Guidance as real parties in interest.6

IV. Conclusion10

Table of Authorities

Cases

Askeladden LLC v. McGhie,
IPR2015-00122, slip op. (PTAB Mar. 6, 2015) (Paper 30)..... 3, 10

Atlanta Gas Light Co. v. Bennett Regulator Guards, Inc.,
IPR2013-00453, slip op. (PTAB Jan. 6, 2015) (Paper 88) 3, 8, 9

Dealersocket, Inc. v. AutoAlert LLC,
CBM2014-00142, slip op. (PTAB Sept. 8, 2014) (Paper 10).....7

GEA Process Eng’g, Inc. v. Steuben Foods, Inc.,
IPR2014-00041, slip op. (PTAB Dec. 23, 2014) (Paper 135)3, 8

Intellectual Ventures II LLC v. JP Morgan Chase & Co.,
781 F.3d 1372 (Fed. Cir. 2015).....8

Nintendo of Am. Inc. v. Motion Games, LLC,
IPR2014-00164, slip op. (PTAB May 15, 2015) (Paper 51)8

Paramount Home Entm’t Inc. v. Nissim Corp.,
IPR2014-00961 (PTAB Dec. 29, 2014) (Paper 11).....3

Reflectix, Inc. v. Promethean Insulation Tech. LLC,
IPR2015-00039, slip op. (PTAB Apr. 24, 2015) (Paper 18) 6, 7, 8

Smart Modular Techs. Inc. v. Netlist, Inc.,
IPR2014-01372, slip op. (PTAB May 26, 2015) (Paper 18)7

Sony Computer Entm’t Am. LLC v. Game Controller Tech. LLC,
IPR2013-00634, slip op. (PTAB Apr. 2, 2015) (Paper 31)9

Zerto, Inc. v. EMC Corp.,
IPR2014-01254, slip op. (PTAB Mar. 3, 1015) (Paper 35).....3

Statutes

35 U.S.C. § 312(a)(2).....6, 8

35 U.S.C. § 315(b) 2, 8, 9

35 U.S.C. § 315(e)2, 9

Other Authorities

37 C.F.R. § 42.1046
37 C.F.R. § 42.1066, 8
37 C.F.R. § 42.106(a)..... 6, 10
37 C.F.R. § 42.119
37 C.F.R. § 42.56, 8
37 C.F.R. § 42.5(c)(3).....6
37 C.F.R. § 42.8(a)(1).....6
37 C.F.R. § 42.8(a)(3).....6

Rules

*Changes to Implement IPR Procs., PGR Procs., and Transitional Prog. for CBM
Pats.,*
77 Fed. Reg. 48680 (Aug. 14, 2012).....9
Office Patent Trial Practice Guide,
77 Fed. Reg. 48756 (Aug. 14, 2012).....3

I. Introduction and Summary of Argument.

Patent Owner respectfully requests that the Board deny Petitioner's Motion for Leave to Add Two Real Parties in Interest (Paper 15) to its Petition for *Inter Partes* Review of Patent 8,727,773, and dismiss its Petition. Petitioner already has had two opportunities to file a complete petition that identifies its sister companies, Edge Endo, LLC and Guidance Endodontics, LLC, as real parties in interest. Petitioner has not shown good cause for its late action.

Dentsply International Inc. and its subsidiary, Tulsa Dental Products LLC (collectively "Dentsply"), have sued to enjoin Petitioner from manufacturing products that Guidance developed and Edge Endo sells to the public. Dr. Charles Goodis owns and controls all three companies. Their interests are unified. Petitioner offers nothing more than attorney argument that its sister companies have no involvement in, or control over, its Petition to justify its position that they do not constitute real parties in interest. Paper 15 at 1, 3. Petitioner's inability to proffer any explanation or evidence to show that its failure to identify Edge Endo and Guidance as real parties in interest was justified shows a lack of good cause for their late identification, and also belies Petitioner's assertion that it is conceding the issue only to save time and expense. *Id.* at 1, 2. Moreover, that Petitioner continues to maintain that Edge Endo and Guidance do not constitute real parties in interest also shows that these companies would have disputed the application of the

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.