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** HIGHLY CONFIDENTIAL **
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
GREENEVILLE DIVISION
Civil Action No. 2:14-CV-00196

-----x
DENTSPLY INTERNATIONAL, INC. and TULSA
DENTAL PRODUCTS LLC d/b/a TULSA DENTAL
SPECIALTIES,

Plaintiffs,

- against -

US ENDODONTICS, LLC,

Defendant.

-----x
September 30, 2014
8:35 a.m.

Videotaped Deposition of A. JON
GOLDBERG, Ph.D., taken by Plaintiffs,
pursuant to Notice, held at the offices of
Kenyon & Kenyon LLP, One Broadway, New
York, New York, before Todd DeSimone, a
Registered Professional Reporter and
Notary Public of the State of New York.

GOLD STANDARD EXHIBIT 2025
US ENDODONTICS v. GOLD STANDARD
CASE IPR2015-00632

VERITEXT REPORTING COMPANY

212-267-6868

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516-608-2400

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 2 A P P E A R A N C E S :
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 5 Attorneys for Plaintiffs
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 9
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 11 Attorneys for Defendant
 BY: JEFFREY S. GINSBERG, ESQ.
 12 jginsberg@kenyon.com
 SLAVEN JESIC, ESQ.
 13 sjestic@kenyon.com
 14
 15
 16
 ALSO PRESENT:
 17 DMITRY ZVONKOV, Videographer
 18
 19
 20
 21
 22
 23
 24
 25

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1 GOLDBERG - HIGHLY CONFIDENTIAL
 2 MR. JESIC: Slaven Jesic,
 3 Kenyon & Kenyon, on behalf of US
 4 Endodontics and the witness.
 5 THE VIDEOGRAPHER: Will the
 6 reporter please swear in the witness.
 7 * * *
 8 A. J O N G O L D B E R G, Ph.D.,
 9 called as a witness, having been first
 10 duly sworn, was examined and testified
 11 as follows:
 12 EXAMINATION BY MS. BRENNER-LEIFER:
 13 Q. Good morning, Dr. Goldberg.
 14 A. Good morning.
 15 Q. Could you state your name and
 16 residence for the record.
 17 A. Yes, Jon Goldberg. West
 18 Hartford, Connecticut.
 19 (Goldberg Exhibit 1 marked for
 20 identification.)
 21 Q. And you understand you have
 22 been subpoenaed for your deposition today?
 23 I'm giving you Exhibit 1 which
 24 is your deposition notice.
 25 A. Okay.

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1 GOLDBERG - HIGHLY CONFIDENTIAL
 2 THE VIDEOGRAPHER: Good morning
 3 My name is Dmitry Zvonkov with Veritext.
 4 Today's date is September 30th, 2014. The
 5 time on the video monitor is 8:35 a.m.
 6 This deposition is being held
 7 at the offices of Kenyon & Kenyon located
 8 at One Broadway, New York, New York. The
 9 caption of the case is Dentsply
 10 International, Inc., et al, versus US
 11 Endodontics LLC, in the U.S. District
 12 Court for the Eastern District of
 13 Tennessee. The name of the witness is
 14 Dr. Jon Goldberg.
 15 Will counsel please identify
 16 themselves for the record.
 17 MS. BRENNER-LEIFER: Elizabeth
 18 Brenner-Leifer from Rothwell Figg Ernst &
 19 Manbeck for plaintiff Dentsply.
 20 MR. NOLAN: Jason Nolan from
 21 Rothwell Figg Ernst & Manbeck for
 22 plaintiff Dentsply.
 23 MR. GINSBERG: Jeff Ginsberg of
 24 Kenyon & Kenyon for defendant US
 25 Endodontics and the witness.

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1 GOLDBERG - HIGHLY CONFIDENTIAL
 2 MR. GINSBERG: I don't believe
 3 he was subpoenaed.
 4 MS. BRENNER-LEIFER: I'm sorry,
 5 the notice for his deposition, I'm sorry.
 6 Q. And you are appearing here
 7 pursuant to the notice of deposition?
 8 A. Yes.
 9 Q. You submitted an expert -- or
 10 two expert reports in this case; is that
 11 correct?
 12 A. Yes.
 13 Q. Have you been deposed before?
 14 A. Yes.
 15 Q. And when was that?
 16 A. Oh, maybe seven, eight years
 17 ago.
 18 Q. And was that -- what kind of
 19 case was that for?
 20 A. It involved dental materials.
 21 Q. And what was -- was it a patent
 22 case?
 23 A. It had to do with a license.
 24 It was a patent, but it wasn't an
 25 infringement issue.

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1 GOLDBERG - HIGHLY CONFIDENTIAL
2 Q. A licensing issue?
3 A. Yes.
4 Q. And what party did you testify
5 for?
6 A. The university had licensed a
7 patent to Pentron Corporation and I was
8 asked to --
9 MR. GINSBERG: I just want to
10 interrupt. I just want to caution you not
11 to reveal any confidential information
12 that may have been involved in that case.
13 You can answer, if you can, but I just
14 don't want you to reveal any confidential
15 information.
16 THE WITNESS: Thank you.
17 A. The university had licensed a
18 company. There was a dispute with another
19 company. And the company that had the
20 license from the university asked me to be
21 a witness on their behalf.
22 Q. Were you a fact witness or an
23 expert witness?
24 A. Can you distinguish?
25 Q. Did you submit an expert report

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1 GOLDBERG - HIGHLY CONFIDENTIAL
2 for that case?
3 A. I don't recall.
4 Q. You were just testifying as to
5 your own personal knowledge --
6 A. That's my recollection.
7 Q. -- of the facts in the case?
8 MR. GINSBERG: Dr. Goldberg,
9 please let Ms. Brenner-Leifer finish
10 asking her question before you begin
11 answering, that way the court reporter can
12 get down both the question and the answer.
13 THE WITNESS: Okay, thank you.
14 Q. Maybe this is a good time to go
15 over some preliminaries. Since you have
16 been deposed before I will just go over
17 this again since it has been you said
18 eight years.
19 You must answer my questions
20 truthfully. You are testifying under oath
21 today. You need to answer verbally and
22 avoid uh-huhs or huh-uhs or nods of your
23 head or shakes of your head which the
24 court reporter can't record very well.
25 It is important for the court

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1 GOLDBERG - HIGHLY CONFIDENTIAL
2 reporter and for our questioning today
3 that we try not to talk over each other,
4 so there is no rush, we have got some
5 time. And if you just take your time and
6 let me finish asking my question and then
7 answer, and I will do my best to do the
8 same and not to interrupt you too.
9 A. And I will do my best to do
10 that also.
11 Q. If you don't hear a question
12 that I ask, ask me to repeat it, or if you
13 don't understand a question that I'm
14 asking, you can ask me to clarify it. If
15 you don't ask me to clarify it, I will
16 just assume that you understand the
17 question.
18 Your attorney can object from
19 time to time about my questions. Unless
20 he instructs you not to answer my
21 questions, you have to answer the
22 question.
23 Do you have any questions for
24 me before we start?
25 A. No.

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1 GOLDBERG - HIGHLY CONFIDENTIAL
2 Q. Do you take any medications
3 that might affect your memory?
4 A. No.
5 Q. Or any medications that might
6 affect your ability to answer truthfully
7 and accurately today?
8 A. No.
9 Q. Is there any reason why you
10 can't provide truthful and accurate
11 testimony here today?
12 A. No.
13 Q. How did you prepare for your
14 deposition?
15 A. Mainly reviewing the articles
16 that we had been preparing over the last
17 couple of months and reviewing the
18 questions -- the assumptions that the
19 attorneys had asked me to make and coming
20 up with particular opinions.
21 Q. What were those assumptions?
22 A. Well, for example, there are
23 some issues relative to what permanent
24 deformation might mean and what the
25 atmosphere was that these files are

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1 GOLDBERG - HIGHLY CONFIDENTIAL
2 heat-treated in. So they would ask me to
3 consider if this was what would be your
4 opinion, those sort of assumptions.
5 Q. And who did you meet with? Who
6 did you meet with to prepare for your
7 deposition?
8 A. Well, most of the deposition I
9 prepared on my own. I did meet with the
10 attorneys at Kenyon & Kenyon just prior to
11 this deposition.
12 Q. Yesterday?
13 A. Yesterday and on Sunday.
14 Q. You were starting to tell me
15 about your other depositions. Were you
16 deposed in any other cases?
17 A. Not that I recall.
18 Q. Have you ever testified at
19 trial or in a hearing?
20 A. Yes. There was another case
21 maybe 15 years ago. I don't recall the
22 particulars. But it was before a judge.
23 Q. Were you a fact witness in that
24 case?
25 A. I just don't recall. I wasn't

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1 GOLDBERG - HIGHLY CONFIDENTIAL
2 a party to the issue, if that's what you
3 are asking. So I was there to provide
4 information, but I'm not -- you would have
5 to explain to me what a fact witness is.
6 Q. Well, a fact witness is you are
7 testifying on your own personal knowledge
8 and experiences rather than your serving
9 as an expert on a particular subject.
10 A. Okay. I'm not sure I fully
11 appreciate the difference, but I was asked
12 to testify about dental materials.
13 Q. And that was a business
14 dispute, too?
15 A. I don't recall.
16 Q. What companies were involved in
17 that case?
18 A. I don't recall.
19 Q. Was Dentsply a party to that
20 case?
21 A. I don't recall who the parties
22 were.
23 (Goldberg Exhibit 2 marked for
24 identification.)
25 Q. Dr. Goldberg, we have handed

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1 GOLDBERG - HIGHLY CONFIDENTIAL
2 you what's been marked as Goldberg 2. I
3 believe it's a copy of your curriculum
4 vitae; is that correct?
5 A. Yes.
6 Q. Is this complete?
7 A. I would have to look through
8 it. It would be hard for me to tell if a
9 particular reference was missing or not.
10 I mean, generally -- let me just page
11 through.
12 (Witness perusing document.)
13 A. It appears to be.
14 Q. Did you prepare your curriculum
15 vitae?
16 A. Yes.
17 Q. So I just want to go through
18 your background.
19 A. Okay.
20 Q. You are a professor at the
21 University of Connecticut?
22 A. Yes.
23 Q. In the Dental School?
24 A. Yes.
25 Q. And what is the Department of

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1 GOLDBERG - HIGHLY CONFIDENTIAL
2 Reconstructive Sciences, what does that
3 mean?
4 A. That's the department that
5 teaches dental restorations, filling
6 materials, caps, crowns, dentures. We
7 also do implants and interface with all
8 the specialties, endodontics,
9 periodontics, oral surgery, orthodontics,
10 because most cases involve input from
11 others.
12 Q. And you graduated from Drexel
13 in 1970?
14 A. Yes.
15 Q. And you got a bachelors in
16 metallurgical engineering?
17 A. Yes.
18 Q. And then you got a masters at
19 University of Michigan; is that correct?
20 A. No. I only have one masters
21 degree, and it is from the University of
22 Michigan in 1971.
23 Q. And then you got a Ph.D. there
24 also?
25 A. At the University of Michigan,

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1 GOLDBERG - HIGHLY CONFIDENTIAL
2 yes.
3 Q. And you spent, it looks like,
4 most of your education is in metallurgy?
5 A. And dental materials.
6 I should comment that my Ph.D.
7 thesis actually had to do with polymers.
8 So I'm familiar with polymers as well as
9 metals and dental materials.
10 Q. And did you -- it looks like
11 from your CV you just went straight
12 through school?
13 A. I'm sorry?
14 Q. It looks like you just went
15 straight through school. Did you have any
16 jobs in between?
17 MR. GINSBERG: Objection to the
18 form of the question. You can answer.
19 A. Yes. While at Drexel, it is a
20 cooperative school, so it is a five-year
21 program. Basically you go to normal
22 classes the first nine months and the last
23 nine months, in between you are six months
24 in school, six months working.
25 So I had a couple of years of

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2 work experience during my undergraduate.
3 Q. Where did you work?
4 A. At the Philadelphia Navy Yard
5 and at Bethlehem Steel Plant in Indiana.
6 Q. My grandfather worked in the
7 mills in Youngstown, a little bit earlier
8 than that. I think he was retired by
9 then. So I have some familiarity with
10 what you do.
11 A. We could share stories, I'm
12 sure.
13 Q. Yeah, I'm sure you could.
14 So you worked for Bethlehem
15 Steel. So you were doing more industrial
16 metallurgy for companies in big
17 manufacturing?
18 MR. GINSBERG: Objection to the
19 form of the question. You can answer, if
20 you can.
21 A. Yes. So when I worked for
22 Bethlehem Steel, it was a brand new steel
23 plant in Indiana and I was asked to go out
24 and work with the chief metallurgist. It
25 was one of the first highly-automated

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2 facilities.
3 So my job was to try to
4 confirm, specifically I was measuring
5 temperatures of steel in what's called a
6 hot rolling mill, so the steel gets rolled
7 down, they change temperatures, and all
8 the automation equipment is trying to
9 monitor the temperature changes and then
10 adjust the processing simultaneously with
11 that.
12 And my job was to actually go
13 down and manually record the temperatures,
14 compare that to what the automated devices
15 were monitoring.
16 Q. And did you have any other jobs
17 while you were in school?
18 A. Yes. I was at the Bethlehem
19 Steel -- I'm sorry, at the Philadelphia
20 Navy Shipyard.
21 Q. And what did you do there?
22 A. I also worked for the chief
23 metallurgist there, and our job was to do
24 failure analysis from components on ships.
25 So, for example, if a boiler

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1 GOLDBERG - HIGHLY CONFIDENTIAL
2 explodes, we would receive samples. We
3 would metallurgically prepare them and
4 then examine them to look at the
5 structure, and then the chief metallurgist
6 would do the interpretation. So I was
7 basically helping to prepare the samples.
8 Q. When you were in school, did
9 any of your studies involve nickel
10 titanium?
11 A. Yes, just limited, at Michigan
12 in the area of dental materials, we
13 studied different alloys. I should
14 correct that answer. I know we studied
15 titanium. I just don't recall back in
16 1970s if we were looking at nickel
17 titaniums at that same time.
18 Q. So your background is more in
19 metallurgy, not in the dental sciences?
20 You are at the dental school, but you are
21 not a dentist or an endodontist?
22 MR. GINSBERG: Objection to the
23 form of the question. You can answer, if
24 you can.
25 A. Yes. As you know, my Ph.D., I

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