

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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US ENDODONTICS, LLC,  
Petitioner

v.

GOLD STANDARD INSTRUMENTS, LLC  
Patent Owner

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CASE IPR2015-00632  
Patent 8,727,773 B2

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**PETITIONER'S SECOND SET OF OBJECTIONS  
TO PATENT OWNER'S EXHIBITS**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner US Endodontics, LLC (“US Endo”) submits the following objections to Exhibits 2001 (Second Substitute), 2002 (Second Substitute), 2024, 2025, 2027, 2028, 2031, 2037, 2038, 2039, 2040, 2041, and 2043 submitted by Patent Owner Gold Standard Instruments, LLC (“GSI”), and any reference to or reliance on the foregoing. As required by 37 C.F.R § 42.62, US Endo’s objections below apply the Federal Rules of Evidence.

**I. OBJECTIONS TO EXHIBITS 2001 (SECOND SUBSTITUTE), 2002 (SECOND SUBSTITUTE), 2025 and 2037**

Exhibits 2001 (second substitute), 2002 (second substitute), 2025 and 2037 are identified as hearing and deposition transcripts from the pending district court litigation. Exhibit 2001 (Second Substitute) is described by GSI as “(Second Substitute) *Dentsply Int’l Inc. and Tulsa Dental Prods. LLC d/b/a Tulsa Dental Specialties v. US Endodontics, LLC*, No. 2:14-196, Preliminary Injunction Hearing Transcript, Volume I, dated Nov. 25, 2014 (E.D. Tenn.) (Complete Hearing transcript and index).” Exhibit 2002 (Second Substitute) is described by GSI as “(Second Substitute) *Dentsply Int’l Inc. and Tulsa Dental Prods. LLC d/b/a Tulsa Dental Specialties v. US Endodontics, LLC*, No. 2:14-196, Preliminary Injunction Hearing Transcript, Volume II, dated Nov. 26, 2014 (E.D. Tenn.) (Complete Hearing transcript and index).” Exhibit 2025 is described by GSI as “Deposition Transcript of A. Jon Goldberg, Ph.D., dated September 30, 2014, taken in *Dentsply*

*Int'l Inc. and Tulsa Dental Prods. LLC d/b/a Tulsa Dental Specialties v. US Endodontics, LLC*, No. 2:14-196 (E.D. Tenn.).” Exhibit 2037 is described by GSI as “Deposition Transcript of Robert Sinclair, Ph.D., dated September 30, 2014, taken in *Dentsply Int'l Inc. and Tulsa Dental Prods. LLC d/b/a Tulsa Dental Specialties v. US Endodontics, LLC*, No. 2:14-196 (E.D. Tenn.).”

US Endo objects to Exhibits 2001 (Second Substitute), 2002 (Second Substitute), 2025 and 2037 as irrelevant pursuant to Fed. R. Evid. 401, and therefore, inadmissible under Fed. R. Evid. 402 and/or Fed. R. Evid. 403. The cited passages in these exhibits do not make any fact relevant to the grounds upon which trial was instituted more or less probable, and any facts that might be established based on these exhibits are of no consequence in determining the issues on which trial was instituted. Fed. R. Evid. 401. Including such citations in the record would merely lead to unfair prejudice, undue delay, confusion, and a waste of time. Fed. R. Evid. 403.

Furthermore, US Endo objects to the admission of Exhibits 2001 (Second Substitute), 2002 (Second Substitute), 2025 and 2037 under Fed. R. Evid. 802 as constituting inadmissible hearsay for which no exception has been established.

## **II. OBJECTION TO EXHIBIT 2024**

Exhibit 2024 is described by GSI as “Kuhn et al., “*Influence of Structure on Nickel-Titanium Endodontic Instruments Failure*,” *Journal of Endodontics*, 27(8), 516-20 (Aug. 2001).”

US Endo objects to Exhibit 2024 as irrelevant, under Fed. R. Evid. 401, to the grounds upon which this proceeding has been instituted, and therefore, inadmissible under Fed. R. Evid. 402 and/or Fed. R. Evid. 403.

US Endo also objects to this exhibit under Fed. R. Evid. 802 as constituting inadmissible hearsay for which no exception has been established.

## **III. OBJECTION TO EXHIBIT 2027**

Exhibit 2027 is described by GSI as “Declaration of Neill H. Luebke, D.D.S., M.S.”

US Endo objects, under Fed. R. Evid. 802, to paragraphs 37-40, 42-43, and 45 of Exhibit 2027 as containing inadmissible hearsay for which GSI has not established any exception.

## **IV. OBJECTION TO EXHIBIT 2028**

Exhibit 2028 is described by GSI as “Declaration of Ronald R. Lemon, D.M.D.”

US Endo objects, under Fed. R. Evid. 802, to paragraphs 33, 40, 48, and 49 of Exhibit 2028 as containing inadmissible hearsay for which GSI has not established any exception.

## **V. OBJECTION TO EXHIBIT 2031**

Exhibit 2031 is described by GSI as “Declaration of Noah Menard, with Exhibit A, DSC Test Report on EdgeFiles.”

US Endo objects to Exhibit 2031 as irrelevant, under Fed. R. Evid. 401, to the grounds upon which this proceeding has been instituted, and therefore, inadmissible under Fed. R. Evid. 402 and/or Fed. R. Evid. 403.

US Endo further objects to Exhibit 2031 under Fed. R. Evid. 901 for lack of authentication.

## **VI. OBJECTION TO EXHIBIT 2038**

Exhibit 2038 is described by GSI as “Expert Report of Robert Sinclair, Ph.D., dated Sept. 12, 2014, in *Dentsply Int’l Inc. and Tulsa Dental Prods. LLC d/b/a Tulsa Dental Specialties v. US Endodontics, LLC*, No. 2:14-196 (E.D. Tenn.).”

US Endo objects to Exhibit 2038 as irrelevant, under Fed. R. Evid. 401, to the grounds upon which this proceeding has been instituted, and therefore, inadmissible under Fed. R. Evid. 402 and/or Fed. R. Evid. 403.

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