
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARTHREX, INC. and SMITH & NEPHEW, INC.,
Petitioners

v.

VITE TECHNOLOGIES, LLC
Patent Owner

Case IPR2016-00382
U.S. Patent No. 6,168,598 B1

**PATENT OWNER'S REQUEST FOR
ADVERSE JUDGMENT UNDER 37 C.F.R. § 42.73(b)**

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

ARGUMENT

The Board instituted review in the above-captioned proceeding for claims 21, 25-27, 29, 30, 38 and 39 of U.S. Patent No. 6,168,598 B1. Institution Decision, Paper No. 7 at 19-20. Claims 21, 25-27, 29, 30 and 38 of U.S. Patent No. 6,168,598 B1 are also subject to *Ex Parte* Reexamination No. 90/013/580, where the Office has rejected or cancelled the majority of the original claims at issue in the present proceeding, and the patent owner has submitted new and amended claims that remain pending in the reexamination proceeding.

“A party may request judgment against itself at any time during a proceeding.” 37 C.F.R. § 42.73(b)(2). Accordingly, Vite Technologies respectfully requests judgment against itself, and asks that the Board cancel the only claims remaining in this proceeding (claims 21, 25-27, 29, 30, 38 and 39) and enter adverse judgment against it as to those remaining claims.

RELIEF REQUESTED

In view of the cancellation of all claims remaining in this proceeding, the patent owner, Vite Technologies, respectfully requests the Board enter a final adverse judgment against Vite Technologies on the claims remaining in this case (claims 21, 25-27, 29, 30, 38 and 39) pursuant to 37 C.F.R. § 42.73(b)(2).

Inter Partes Review of Patent No. 6,168,598 B1
Case No. IPR2016-00382

Date: November 4, 2016

Respectfully submitted,

/Steven R. Daniels/

Steven R. Daniels

Reg. No. 45345

FARNEY DANIELS PC

800 S. Austin Avenue, Suite 200

Georgetown, Texas 78626

Telephone: (512) 582-2828

Facsimile: (512) 582-2829

Email: sdaniels@farneydaniels.com

Attorneys for Patent Owner

Vite Technologies, LLC

Certificate of Service in Compliance with 37 C.F.R. § 42.6(e)(4)

The undersigned certifies that a complete copy of Patent Owner's Request for Adverse Judgment has been served electronically in its entirety to the attorneys of record for the Petitioner this November 4, 2016, via email:

Via Email:

Michael N. Rader, Reg. No. 52,146
Randy J. Pritzker, No. 35,986
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210
Tel: 617-646-8000
Fax: 617-646-8646
Email: mrader-ptab@wolfgreenfield.com
rpritzker-ptab@wolfgreenfield.com

Via Email:

Anthony Cho, Reg. No. 47,209
CARLSON, GASKEY & OLDS, P.C.
400 W. Maple, Suite 350
Birmingham, MI 48009
Tel: 248-988-8360
Email: acho@cgolaw.com

Date: November 4, 2016

/Steven R. Daniels/

Steven R. Daniels
Reg. No. 45345