UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EDWARDS LIFESCIENCES CORPORATION, EDWARDS LIFESCIENCES LLC, AND EDWARDS LIFESCIENCES AG Petitioners

V.

BOSTON SCIENTIFIC SCIMED, INC. Patent Owner

Case IPR2017-00060 Patent 8,992,608

PATENT OWNER'S PRELIMINARY RESPONSE

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

				Page		
I.	STATEMENT OF PRECISE RELIEF REQUESTED1					
II.	INTRODUCTION					
III.	BAC	KGRC	OUND	3		
	A.	TAV	R	3		
	B.	The '	608 P	atent5		
IV.	CLA	IM CC	ONSTE	RUCTION7		
V.				OF PETITIONERS' EXPERT ARE ENTITLED NO WEIGHT		
VI.				IAVE NOT MET THEIR BURDEN OF T CLAIMS 1-4 ARE LIKELY INVALID10		
	A.	Clair	ns 1-4	Have Not Met Their Burden Of Showing That Are Likely Anticipated Under 35 U.S.C. 10		
				nd 1: Invalidity Under 35 U.S.C. § 102(b) Over er		
			a)	Cribier Does Not Disclose A "Replacement Valve Commissure Support Element Attached to the Expandable Anchor" or "A Commissure Portion of a Replacement Valve Leaflet Attached to the Commissure Support Element" (Claim 1 – "Claim Element 1.2" and "Claim Element 1.3")		
			b)	Cribier Does Not Disclose "Flaps That Extend Into Spaces Formed By Native Valve Leaflets" When The Fabric Seal Is In The Deployed State (Claim 1 – "Claim Element 1.6")		



	c)	Being Adapted To Prevent Blood From Flowing Between The Fabric Seal And Heart Tissue" (Claim 1 – "Claim Element 1.9")	19
	d)	Cribier Does Not Disclose "Pockets" Or Pockets "Adapted To Fill With Blood In Response To Backflow Blood Pressure" (Claims 2 and 3)	22
2.		-	22
	a)	Spenser Does Not Disclose "Flaps That Extend Into Spaces Formed By Native Valve Leaflets" When The Fabric Seal Is In The Deployed State (Claim 1 – "Claim Element 1.6")	23
	b)	Spenser Does Not Disclose A "Fabric Seal Being Adapted To Prevent Blood From Flowing Between The Fabric Seal And Heart Tissue" (Claim 1 – "Claim Element 1.9")	26
	c)	Spenser Does Not Disclose "Pockets" Or Pockets "Adapted To Fill With Blood In Response To Backflow Blood Pressure" (Claims 2 and 3)	28
		-	28
1.	Gov	erning Legal Authority	29
	a)	The Obviousness Standard	29
	b)	Recognition Of A Previously-Unknown Problem Can Itself Be Evidence Of Nonobviousness	31
2.	U.S.	C. § 103(a) Over Cribier In View Of	33
	Petit Clair 1.	d) 2. Grous Speral a) b) c) Petitioners Claims 1-4 1. Goven a) b) 2. Grous U.S.	Being Adapted To Prevent Blood From Flowing Between The Fabric Seal And Heart Tissue" (Claim 1 – "Claim Element 1.9")



B.

	a)	There Was No Motivation To Combine Cribier And Spiridigliozzi	33
	b)	The Combination Of Cribier And Spiridigliozzi Does Not Disclose All Of The Elements Of Claims 1-4	36
3.		nd 3: Invalidity Under 35 U.S.C. § 103(a) Over er In View Of Elliot	40
	a)	There Was No Motivation To Combine Cribier And Elliot	40
	b)	The Combination Of Cribier And Elliot Does Not Disclose All Of The Elements Of Claims 1-	42
4.		nd 4: Invalidity Under 35 U.S.C. § 103(a) Over er In View Of Thornton	44
	a)	There Was No Motivation To Combine Cribier And Thornton	44
	b)	The Combination Of Cribier And Thornton Does Not Disclose All Of The Elements Of Claims 1-4	45
5.		nd 5: Invalidity Under 35 U.S.C. § 103(a) Over er In View Of Cook	47
	a)	There Was No Motivation To Combine Cribier And Cook	
	b)	The Combination Of Cribier And Cook Does Not Disclose All Of The Elements Of Claims 1- 4	48
6.		nd 6: Invalidity Under 35 U.S.C. § 103(a) Over er In View Of De Paulis	49
	a)	There Was No Motivation To Combine Cribier	40



		b) The Combination Of Cribier And De Paulis Does Not Disclose All Of The Elements Of Claims 1-4	51
	7.	Ground 7: Invalidity Under 35 U.S.C. § 103(a) Over Spenser In View Of Elliot	53
	8.	Ground 8: Invalidity Under 35 U.S.C. § 103(a) Over Spenser In View Of Thornton	56
	9.	Ground 9: Claims 1-4 Are Not Invalid Under 35 U.S.C. § 103(a) Over Spenser In View Of Cook	57
	10.	Ground 10: Invalidity Under 35 U.S.C. § 103(a) Over Spenser In View Of De Paulis	59
VII	CONCLUS	JON	60



DOCKET

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.

