

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EDWARDS LIFESCIENCES CORP.,

Petitioner,

v.

BOSTON SCIENTIFIC SCIMED, INC.,

Patent Owner.

Case IPR2017-00444

Patent 6,915,560

Before the Honorable NEIL T. POWELL, JAMES A. TARTAL, and STACY B. MARGOLIES, *Administrative Patent Judges.*

**PATENT OWNER'S MOTION FOR
OBSERVATIONS ON CROSS-EXAMINATION**

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Pursuant to the Case Management and Scheduling Order (Paper No. 10), Boston Scientific Scimed, Inc. (“Patent Owner”) hereby moves for consideration of the following observations on cross-examination testimony of Edwards Lifesciences Corporation’s (“Petitioner’s”) reply witness, Mr. Neil Sheehan. The transcript of his deposition on January 26, 2018 and his supplemental declaration have been filed as Exhibits 2052 and 1127, respectively.¹ The challenged patent, U.S. Patent No. 6,915,560 (the ’560 patent), and the principal prior art reference, U.S. Patent No. 4,454,657 (“Yasumi”), have been filed as Exhibits 1101 and 1103, respectively.

I. Observations Regarding Mr. Sheehan’s Expertise

Observation #1. In Exhibit 2052, on page 9, line 17 through page 10, line 25, Mr. Sheehan testified, with respect to paragraph 8 of his supplemental declaration, that he removed stents from the balloon catheter products about six years after the relevant time frame of the ’560 patent and that he did not crimp a stent on a balloon catheter. This testimony is relevant to whether Mr. Sheehan has the relevant experience. (*See* Paper No. 15 at 13-14.)

¹ Petitioner filed a corrected Exhibit 1127 on January 19, 2018 (which adds only an under-the-penalty-of-perjury statement at the end).

Observation #2. In Exhibit 2052, on page 14, line 4 through line 10, Mr. Sheehan testified, with respect to paragraph 9 of his supplemental declaration, that he did not crimp a stent on a balloon catheter. This testimony is relevant to whether Mr. Sheehan has the relevant experience. (*See* Paper No. 15 at 13-14.)

II. Observations Regarding Disclosures Relating To Figure 8 Of Yasumi

Observation #3. In Exhibit 2052, on page 20, line 2 through line 24, Mr. Sheehan testified, with respect to paragraph 18 of his supplemental declaration, that Figure 8 does not disclose a pin connector (so that it “can be crimped securely onto the wire”) and that only Figure 9 of Yasumi relates to a pin connector. (Ex. 1127 at ¶ 18.) This testimony is relevant to whether Figure 8 of Yasumi is a stent crimper. (*See* Paper No. 15 at 30.)

Observation #4. In Exhibit 2052, on page 27, line 20 through line 25, Mr. Sheehan testified, with respect to paragraph 19 of his supplemental declaration, that an “electric wire or the like” is the only example given in connection with Figure 8 of Yasumi. This testimony is relevant to whether Figure 8 of Yasumi is a stent crimper. (*See* Paper No. 15 at 30.)

III. Observations Regarding How Figure 8 Of Yasumi Operates

Observation #5. In Exhibit 2052, on page 30, line 23 through page 32, line 16, Mr. Sheehan cannot point to, with respect to the second sentence of paragraph 23 of his supplemental declaration, any disclosure at column 8, line 1

through 41 of Yasumi showing how the movable handle 37 is coupled to the setting piece 32. (Ex. 1127 at ¶ 23 (“The ...movable handle 37 (purple) and setting piece 32 (blue) are coupled together in the manner described in the specification, *id.*, at 8:1-41....”).) This testimony is relevant to whether there is sufficient disclosure in Yasumi to show how the device of Figure 8 works. (See Exhibit 2016 [Solar Decl.] at ¶¶ 40, 68; Paper No. 15 at 31, 33.)

Observation #6. In Exhibit 2052, on page 33, line 13 through line 16, Mr. Sheehan testified, with respect to paragraph 23 of his supplemental declaration, that the setting piece 32 “would kind of flex” and “flex a little bit to allow for any movement.” This testimony is relevant to whether there is sufficient disclosure in Yasumi to show how the device of Figure 8 works and whether it could be used to crimp a stent. (See Exhibit 2016 [Solar Decl.] at ¶¶ 40, 68; Paper No. 15 at 30, 31.)

Observation #7. In Exhibit 2052, on page 38, line 15 through line 18, Mr. Sheehan testified, with respect to paragraph 23 of his supplemental declaration, that the movable handle 37 can’t move independently of the setting piece 32 before the setting piece 32 hits the adjust cam because “the pins run through everything” and “they are all held together.” This testimony is relevant to how the pins 45 “are fixed” in Figure 8 of Yasumi and whether there is sufficient disclosure in Yasumi

to show how the device of Figure 8 works. (*See* Exhibit 1103 at 8:50; Exhibit 2016 [Solar Decl.] at ¶¶ 40, 68; Paper No. 15 at 31, 33.)

Observation #8. In Exhibit 2052, on page 40, line 5 through line 7, Mr. Sheehan testified, with respect to paragraph 23 of his supplemental declaration, that when the movable handle 37 and the setting piece 32 are turning together, the pins 45 move also and “everybody rotates.” This testimony is relevant to how the pins 45 “are fixed” in Figure 8 of Yasumi and whether there is sufficient disclosure in Yasumi to show how the device of Figure 8 works. (*See* Exhibit 1103 at 8:50; Exhibit 2016 [Solar Decl.] at ¶¶ 40, 68; Paper No. 15 at 31, 33.)

Observation #9A. In Exhibit 2052, on page 40, line 11 through page 41, line 18, Mr. Sheehan testified, with respect to paragraph 23 of his supplemental declaration, that when the movable handle 37 and the setting piece 32 are moving together before the setting piece 32 hits the adjust cam, the movable pieces also move and the aperture gets “smaller” and “pre-size[s].” This testimony is relevant to whether there is sufficient disclosure in Yasumi to show how the device of Figure 8 works. (*See* Exhibit 2016 [Solar Decl.] at ¶¶ 40, 68; Paper No. 15 at 31, 33.)

Observation #9B. In Exhibit 2052, on page 43, line 11 through page 44, line 2, Mr. Sheehan testified, with respect to paragraph 23 of his supplemental declaration, that when the movable handle 37 and the setting piece 32 are moving

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