

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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EDWARDS LIFESCIENCES CORPORATION,  
Petitioner,

v.

BOSTON SCIENTIFIC SCIMED, INC.,  
Patent Owner.

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Case IPR2017-00444  
Patent 6,915,560 B2

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Record of Oral Hearing  
Held: March 15, 2018

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

Case IPR2017-00444  
Patent 6,915,560 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

CRAIG S. SUMMERS, ESQUIRE  
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ON BEHALF OF THE PATENT OWNER:

WALLACE WU, ESQUIRE  
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The above-entitled matter came on for hearing on Thursday, March 15, 2018, commencing at 1:00 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

PROCEEDINGS

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JUDGE TARTAL: We are here for a final hearing in inter partes review case captioned Edwards Lifesciences Corporation, Petitioner, versus Boston Scientific Scimed, Incorporated, Patent Owner, Case IPR 2017-00444, concerning U.S. Patent Number 6,915,560 B2.

Let me begin by introducing the panel. I'm joined by Judge Powell and Judge Margolies and I'm Judge Tartal. Can I please have the parties' appearances and we'll begin today with Petitioner.

MR. SUMMERS: Good afternoon. My name is Craig Summers of Knobbe Martens. I'm here to present the argument today on behalf of the Petitioner, Edwards Lifesciences. With me today will be Josh Stole, my partner and my partner Christy Lee. I'd also like to introduce two in-house attorneys from Edwards Lifesciences who are here today. Keith Newberry, who is the vice-president and chief IP counsel of the company, and Ryan Lindsey, who's senior corporate counsel of intellectual property and litigation.

JUDGE TARTAL: Good afternoon, Counsel, and welcome. Now for Patent Owner, who do we have appearing today?

MR. WU: Wallace Wu, from Arnold Porter Kaye Scholer. With me is my colleague Nick Nyemah. Also with me are my colleagues Chantelle Gutrick, Ed Hong and Mark Cohen. Thank you, Your Honors.

JUDGE TARTAL: Thank you. We set forth the procedures for today's hearing in our trial order and as a reminder, each party will have 40 minutes of total time to present arguments in the case. Petitioner has the burden of proof and will go first. Patent Owner will then present opposition

1 arguments for the case, also argue its motion to exclude and if the Petitioner  
2 has reserved time, Petitioner will present arguments in reply to the case and  
3 any opposition to the motion to exclude.

4 Finally, if Patent Owner has reserved time, it may present reply  
5 arguments, only with regard to the motion to exclude. Counsel, any  
6 questions in that regard for Petitioner?

7 MR. SUMMERS: No, Your Honor.

8 MR. WU: No, Your Honor.

9 JUDGE TARTAL: For clarity of the transcript, when you refer to an  
10 exhibit on the screen, please state for the record the exhibit and page  
11 number, or for demonstratives, the slide number to which you are referring.  
12 We remind each party that under no circumstances are they to interrupt the  
13 other party while that party is presenting its arguments and demonstratives.

14 We are aware that Patent Owner has filed objections to Petitioner's  
15 demonstratives. Patent Owner may address those objections during its time  
16 to argue today, if it so chooses, but we will reserve ruling on those  
17 objections at this time.

18 Are there any additional questions on behalf of Patent Owner?

19 MR. WU: No, Your Honor.

20 JUDGE TARTAL: Any questions on behalf of Petitioner at this time?

21 MR. SUMMERS: No.

22 JUDGE TARTAL: Petitioner, would you like to reserve a certain  
23 amount of time of the 40 minutes for your later reply?

24 MR. SUMMERS: Yes, Your Honor. We would like to reserve 12  
25 minutes for the reply rebuttal.

26 JUDGE TARTAL: So that will begin you with 28 minutes. You may

1 proceed when you're ready, Counsel.

2 MR. SUMMERS: Thank you. And, again, good afternoon. As  
3 shown in Slide, the '560 Patent is directed to an apparatus having movable  
4 blades or dies arranged to form an aperture in the shape of a polygon. The  
5 dies move inward to reduce the size of the aperture and they move outward  
6 to increase the size of the aperture.

7 There are multiple uses for this apparatus, including as a crimper and  
8 as a blow molding tool. The variable size polygonal apertures shown in the  
9 '560 Patent were well-known in the prior art. As shown in Slide 4, we have  
10 examples from four prior art patents which show crimping apertures in the  
11 shape of a polygon, some go back as far as 1954, such as the Andrews  
12 Patent, in the upper left. So these patents show multiple uses for gripping  
13 objects, forming bars and so forth and this was very well-known in the prior  
14 art.

15 Slide 6, please. Trial has been instituted on all challenged claims  
16 based on Section 103, in view of the Yasumi Patent, Fig. 8. Trial also has  
17 been instituted on a subset of those same claims under Section 103, based on  
18 Yasumi in combination with Morales.

19 Slide 7 shows the disputed issues in this case. The first one is whether  
20 the preamble, a stent crimper is limiting. I'd like to turn to that argument  
21 first.

22 Slide 9 shows Claim 1 from the '560 Patent. This is a representative  
23 claim and shows the preamble in dispute. Every challenged claim has this  
24 preamble.

25 Slide 12. There are multiple reasons why the preamble is not limiting.  
26 First, the body of the claim recites a structurally complete invention. The

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