

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EDWARDS LIFESCIENCES CORPORATION,
Petitioner,

v.

BOSTON SCIENTIFIC SCIMED, INC.,
Patent Owner.

Case IPR2017-01301
Patent 6,915,560 B2

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

TARTAL, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

On April 19, 2017, Edwards Lifesciences Corporation (“Petitioner”) filed a Petition (Paper 1, “Pet.”) requesting institution of *inter partes* review of claims 1, 2, 6, 8–11, 14, 15, 17–19, 23, 25–28, 31, 33–35, 37, 39, and 40 (the “Challenged Claims”) of U.S. Patent No. 6,915,560 B2 (Ex. 1201, “the ’560 patent”). Boston Scientific Scimed, Inc. (“Patent Owner”) filed a Preliminary Response (Paper 6, “Prelim. Resp.”). We have jurisdiction under 35 U.S.C. § 314, which provides that an *inter partes* review may not be instituted “unless . . . the information presented in the petition . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” *See also* 37 C.F.R. § 42.4(a).

The Petition is the *third* petition filed by Petitioner challenging the same claims of the ’560 patent. Petitioner filed its first petition against the Challenged Claims of the ’560 patent on October 14, 2016, in IPR2017-00072 (“IPR-072”). *Edwards Lifesciences Corp. v. Boston Scientific Scimed, Inc.*, Case IPR2017-00072, Paper 1 (the “IPR-072 Petition”), 44–93. Petitioner filed its second petition on December 7, 2016, against the Challenged Claims of the ’560 patent in IPR2017-00444 (“IPR-444”). *Edwards Lifesciences Corp. v. Boston Scientific Scimed, Inc.*, Case IPR2017-00444, Paper 1 (the “IPR-444 Petition”), 49–97.

On April 21, 2017, we declined institution of *inter partes* review of the Challenged Claims of the ’560 patent in IPR-072. IPR-072, Paper 8 (the “IPR-072 Institution Decision”), 11. On June 29, 2017, we instituted *inter partes* review of the Challenged Claims of the ’560 patent in IPR-444.

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IPR-444, Paper 9 (the “IPR-444 Institution Decision”), 25. Oral argument in IPR-444, if requested by the parties, is scheduled for March 15, 2018.

IPR-444, Paper 8, 8.

Institution of *inter partes* review is discretionary. *See* 35 U.S.C. § 314(a); 37 C.F.R. § 42.108(a). For the reasons explained below, we exercise our discretion to not institute *inter partes* review on any of the Challenged Claims of the ’560 patent in this case.

II. BACKGROUND

A. *The ’560 Patent*

The ’560 patent, titled “Apparatus for Contracting, Loading or Crimping Self-Expanding and Balloon Expandable Stent Devices,” issued July 12, 2005, from U.S. Application No. 10/444,807 (the ’807 application), filed May 23, 2003. Ex. 1201. The ’807 application was a division of U.S. Application No. 09/966,686, filed on October 1, 2001 (issued as U.S. Patent No. 6,823,576), which was a continuation of U.S. Application No. 09/401,218 (the ’218 application), filed on September 22, 1999 (issued as U.S. Patent No. 6,360,577). *Id.* The ’560 patent generally relates to a device “capable of crimping a stent uniformly while minimizing the distortion of and scoring and marking of the stent due to crimping.” *Id.* at 2:26–29.

Figure 4A of the '560 patent is reproduced below.

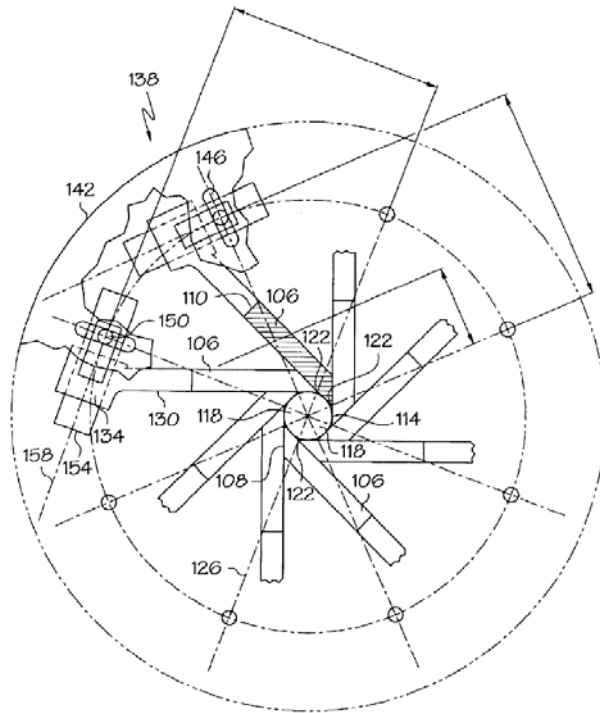


FIG. 4A

Figure 4A illustrates “a partial front view of an embodiment of the inventive apparatus.” Ex. 1201, 4:1–2. Actuation device 138 includes rotatable actuation plate 142 and eight coupled blades 106 disposed about reference circle 114 to form aperture 118. *See id.* at 4:46–49. “Each blade 106 is engaged to actuation plate 142 via a cam follower bearing 150 disposed in radial slot 146 and attached to mounting means in slotted end 134.” *Id.* at 5:19–21. “Each bearing 150 extends from a linear slide 154.” *Id.* at 5:22.

“In use, as actuation plate 142 is rotated in a clockwise direction, the clockwise motion of the actuation plate is translated into linear motion of each linear slide 154 and blade 106 via bearing 150.” *Id.* at 5:46–49. “Each blade 106 moves outward in a direction parallel to the radius 126 . . . resulting in the opening of aperture 118.” *Id.* at 5:49–52.

B. Illustrative Claim

Challenged claims 1, 10, 18, 27, 37, 39, and 40 are independent.

Claim 1 is illustrative of the claimed subject matter and is reproduced below:

1. A stent crimper comprising:
a plurality of movable dies arranged to form an iris having a longitudinal axis, the iris defining an aperture, the dies disposed about the aperture and between stationary end-walls which are disposed about the longitudinal axis, at least one of the stationary end-walls operatively engaged to the dies at distinct connection locations such that the number of distinct connection locations and the number of dies are the same;
each die having a first straight side and a second straight side, the first straight side and the second straight side converg[ing] to form a tip; wherein a portion of the first straight side of each die faces the aperture, each first straight side parallel to the second side of an adjacent die.

Ex. 1201, 10:8–22.

C. Related Proceedings

In addition to the *inter partes* review of the Challenged Claims of the '560 patent instituted in IPR-444 and the petition denied in IPR-072, discussed above, the parties indicate that the '560 patent is asserted in the United States District Court for the Central District of California, in a case captioned *Boston Scientific Corp. et al. v. Edwards Lifesciences Corp.*, Case No. 8:16-cv-0730 (C.D. Cal.). Pet. 11; Paper 3, 2.

D. Real Parties in Interest

Petitioner identifies only itself as a real party in interest. Pet. 11. Patent Owner identifies itself and Boston Scientific Corp. as real parties in interest. Paper 3, 2.

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