

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VISIONSENSE CORP.

Petitioner,

v.

NOVADAQ TECHNOLOGIES INC.

Patent Owner.

Patent No. 8,892,190

Inter Partes Review No. IPR2017-01426

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2. *Little* fails to disclose or suggest “evaluating the angiographic images to assess blood flow through the vessel graft relative to blood flow through the interconnected group of blood vessels”30

3. *Little* fails to disclose or suggest “the vessel graft . . . being exposed,” as recited in claim 132

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1. Claims 1 and 235

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D. Ground 4: Claims 1–3 are not obvious over *Jibu*, *Flower I*, and *Little*, or *Goldstein*50

1. The Petitioner failed to meet its evidentiary burden of providing a copy of *Jibu* in its original Japanese and providing an affidavit attesting to the accuracy of the English translation of *Jibu*51

2. *Jibu* fails to cure the deficiencies of *Little*, *Goldstein*, and *Flower I*52

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Exhibit List for Inter Partes Review of U.S. Patent No. 8,892,190

Exhibit Description	Exhibit #
Little, John R., et al. "Superficial temporal artery to middle cerebral artery anastomosis: Intraoperative evaluation by fluorescein angiography and xenon-133 clearance." <i>Journal of Neurosurgery</i> 50.5 (1979): 560-569	2001
Declaration of Brian Wilson ("Wilson Decl.")	2002
Definition of "graft," excerpt of <i>Stedman's Medical Dictionary for the Health Professions and Nursing</i> ; 6th Ed. (2008)	2003
Definition of "Expose," excerpt of <i>Merriam Webster's Medical Desk Dictionary</i> (1993)	2004

I. INTRODUCTION

Patent Owner Novadaq Technologies Inc. (“Patent Owner”) respectfully requests that the Board decline to initiate an *inter partes* review of U.S. Patent No. 8,892,190 (“the ’190 patent”) because petitioner Visionsense Corp. has failed to show a reasonable likelihood of prevailing with respect to any of the challenged claims. (35 U.S.C. § 314(a).)

The Petition fails for a fundamental reason: the lead reference, *Little*, simply does not disclose or suggest several claimed elements. Neither the Petition nor Petitioner’s expert grapple with this basic problem, which is plain from the very figures of *Little* relied upon in the Petition. As shown below, the Petition is built upon a mischaracterization of *Little*, deficient claim construction, and weak and unsubstantiated arguments.

The claims in the ’190 patent are all directed to methods for assessing the blood flow through a vessel graft and through the downstream vessels that it feeds to evaluate the success of a grafting procedure. A camera images the movement of a fluorescent dye wavefront both in the exposed vessel graft and in an interconnected group of blood vessels downstream from the attachment point (anastomosis) of the vessel graft. The images are evaluated to assess the relative blood flow through the vessel graft as compared to blood flow through the interconnected group of blood vessels. This relative assessment requires

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