

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EXOCAD GMBH AND EXOCAD AMERICA, INC.
Petitioner,

v.

3SHAPE A/S,
Patent Owner.

Patent No. 9,336,336
Issue Date: May 10, 2016
Title: 2D IMAGE ARRANGEMENT

Inter Partes Review No. IPR2018-00788

SECOND DECLARATION OF JOSEPH L. MUNDY, Ph.D.

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I. INTRODUCTION

1. I have been retained as an expert in the field of computer science technology, including working with 3D and 2D images and models in CAD software, which includes digital dentistry software, by Foley & Lardner LLP, which represents exocad GmbH and exocad America, Inc. (collectively “exocad”) in this matter. I previously prepared a declaration in this *inter partes* review, which was submitted as Exhibit 1002. In this Second Declaration, I have been asked to prepare a written declaration replying to the statements and assertions made by the Patent Owner and Patent Owner’s expert, Dr. Saber, as well as certain portions of the Board’s Institution Decision. My opinions are detailed below.

2. The documents that I have considered in developing my opinions set forth in this declaration are referenced in my prior declaration and this declaration, including the declaration of Eli Saber, Ph.D, Patent Owner’s Response to the Petition and exhibits cited therein, the deposition transcript from the deposition of Dr. Saber (Ex. 1026), and additional exhibits 1024-25.

3. My curriculum vitae was submitted previously as Exhibit 1003. My compensation for working on issues in this matter continues to be based on a rate of \$350 per hour for consulting and \$400 per hour for testimony in deposition or trial, plus reimbursement for reasonably incurred expenses. My compensation

does not depend upon the outcome of this matter or the related litigation, the opinions I express, or my testimony.

4. Additional information may become available which would further support or modify the conclusions that I have reached to date. Accordingly, I reserve the right to modify and/or enlarge this opinion or the bases thereof upon consideration of any further discovery, testimony, or other evidence, including any issues raised by any expert or witness of the Patent Owner, 3Shape A/S (“3Shape”), or based upon interpretations of any claim term by the Patent Office different than those proposed in this declaration.

5. My qualifications are set forth in my prior declaration and curriculum vitae.

II. CLAIM CONSTRUCTION

6. My analysis of various claim constructions were set forth in my previous declaration. I respond to certain points argued by Patent Owner and Dr. Saber here.

7. “*3D virtual model of at least part of an oral cavity of the patient.*” I understand that the Board disagreed with my proposed construction in its Institution Decision. According to the Board, this phrase refers only to the patient’s cavity pre-restoration and excludes using an oral cavity of the patient

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