

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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INTUITIVE SURGICAL, INC.,  
Petitioner,

v.

ETHICON LLC,  
Patent Owner.

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Case IPR2018-01254  
U.S. Patent No. 8,479,969 B2

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**PATENT OWNER'S OBJECTIONS TO ADMISSIBILITY OF EVIDENCE  
SERVED BY PETITIONER INTUITIVE SURGICAL, INC. IN *INTER  
PARTES* REVIEW**

Pursuant to 37 C.F.R. § 42.64(b), Patent Owner Ethicon LLC, hereby objects as follows to the admissibility of evidence filed by Petitioner Intuitive Surgical, Inc. in *Inter Partes* review of U.S. Patent No. 8,479,969 (IPR2018-01254).

<b>Evidence</b>	<b>Objections</b>
<b>Exhibit 1005</b>	<p><b>FRE 105:</b> To the extent that any portion of this exhibit may be deemed admissible, such admissibility should be for a limited purpose.</p> <p><b>FRE 403:</b> The probative value of paragraphs 28-144 to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence.</p> <p><b>FRE 602:</b> As to at least paragraphs 30-33, 37, 39, 40, 43-46-48, 50-55, 68, 71, 73-82, 85, 86, 89, 91, 93, 95, 97, 100-103, 105-117, 119-122, 124, 126, 127, 129-140, 142-144, the exhibit includes assertions for which evidence has not been introduced sufficient to show that the witness has personal knowledge of the matters asserted.</p> <p><b>FRE 701/702 and/or 37 C.F.R. § 42.65:</b> As to at least paragraphs 26-34 and 37, 39-40, and 43-144, the exhibit</p>

<b>Evidence</b>	<b>Objections</b>
	<p>declarant is not qualified to opine on what a person of ordinary skill in the art would understand, to opine on patent claim limitations, to perform claim construction, and/or to perform legal analysis of invalidity. The opinion testimony offered in this exhibit is not based on scientific, technical, or other specialized knowledge, and is also not based on personal knowledge. The opinion testimony includes unsubstantiated leaps and advances inaccurate, unqualified generalizations. The opinion testimony fails to properly disclose the underlying facts or data on which the opinion is based. The opinion testimony includes testimony on United States patent law and/or patent examination practice.</p> <p><b>FRE 802:</b> The entirety of the exhibit is inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein.</p>
<p><b>Exhibit 1005, Appendix A</b></p>	<p><b>FRE 402:</b> The exhibit is not relevant to any ground upon which trial was instituted.</p>

<b>Evidence</b>	<b>Objections</b>
	<p><b>FRE 403:</b> The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly cumulative evidence.</p> <p><b>FRE 802:</b> Portions of this exhibit contain inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein.</p> <p><b>FRE 805:</b> The exhibit contains improper hearsay within hearsay.</p> <p><b>FRE 901:</b> Petitioner has not produced evidence sufficient to support a finding that the exhibit is what Petitioner claims it is.</p> <p><b>FRE 1006:</b> Portions of the exhibit constitute an inadmissible summary with underlying documents not made available.</p>

Dated: January 30, 2019

Respectfully submitted,

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