

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NEW WORLD MEDICAL INC.,  
Petitioner,

v.

MICROSURGICAL TECHNOLOGY, INC.,  
Patent Owner.

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IPR2020-01573 (Patent 9,107,729 B2)  
IPR2020-01711 (Patent 9,358,155 B2)  
IPR2021-00017 (Patent 9,820,885 B2)  
IPR2021-00065 (Patent 10,123,905 B2)  
IPR2021-00066 (Patent 9,999,544 B2)

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Record of Oral Hearing  
Held: January 10, 2022

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Before JAMES A. TARTAL, JAMES A. WORTH, ROBERT A.  
POLLOCK, RYAN H. FLAX, and DEVON ZASTROW NEWMAN,  
*Administrative Patent Judges.*

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IPR2021-00066 (Patent 9,999,544 B2)

APPEARANCES:

ON BEHALF OF THE PETITIONER:

TODD R. TUCKER, ESQ.  
Calfee, Halter & Griswold, LLP  
1405 E. 6th Street  
Cleveland, OH 44114

ON BEHALF OF THE PATENT OWNER:

LAWRENCE SUNG, ESQ.  
Wiley Rein, LLP  
Montgomery Building  
2050 M Street, N.W.  
Washington, D.C. 20036

The above-entitled matter came on for hearing on Monday, January 10, 2022, commencing at 10:00 a.m., EDT, by video/by telephone.

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# PROCEEDINGS

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JUDGE FLAX: Good morning. This is Judge Flax. We are here this morning just past 10 a.m. to hear final oral argument in one, two, three, four, five IPRs. Those are IPR 2020-01573 concerning patent 9,107,729, IPR 2020-01711 concerning patent 9,358,155, IPR 2021-00017 concerning patent 9,820,885, IPR 2021-00065 concerning patent 10,123,905 and IPR 2021-00066 concerning patent 9,999,544. You have an enlarged group of judges this morning spanning the panels of these various IPRs and besides myself with you today are Judges Tartal, Worth, Pollock and Zastrow Newman.

The first thing I would like to do is ask you to please stay on mute when you're not speaking. I do hear an echo right now so probably someone isn't, if they would mute themselves that would stop happening, so it did just stop and I appreciate that. Before we begin I do want to thank you all for your flexibility in conducting this remote video hearing today. At this point it's not an unusual way to conduct hearings. We know that it's not optimal and it's probably not what you would like to do and hopefully sometime soon in the future we will not have to hold hearings this way. Our primary concern here is your right to be heard. So if at any time during the proceeding you encounter technical or other difficulties that you feel fundamentally

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1   undermine your ability to adequately represent your client,  
2   please do let us know immediately by contacting the team  
3   members who provided you with contact information.

4           Second, as I just noted, when you're not speaking please do  
5   mute yourself. It will help us have an accurate record and it will  
6   help to have everyone participate this way. Third, whenever you  
7   do speak please identify yourself as a speaker. This will help the  
8   court reporter prepare an accurate transcript even though he  
9   should have your names associated with your video feeds. And  
10   fourth we do have the entire record in front of us including your  
11   demonstratives and your motions and your papers. So when you  
12   do refer to anything in the hearing, be it a paper or evidence or a  
13   motion, please identify it by number and page number and after  
14   you identify it pause just a moment so that you can give us time  
15   to find it in the record.

16           That being said each side has agreed to one hour of  
17   argument today and at our conference call last week we  
18   discussed that we have motions on evidence that we will hear  
19   argument on before we get to the final oral argument on the  
20   merits. So, and we also agreed that that was going to take at  
21   most a half an hour, so 15 minutes per side. So if the counsel  
22   could please introduce themselves and get their names entered on  
23   the record, go ahead and do that now.

24           MR. TUCKER: Yes, good morning. This is Todd Tucker.

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1 I represent the Petitioner New World Medical. With me is Kyle  
2 Deighan and John Reulbach and also the general counsel/chief  
3 patent counsel of New World Medical David Klann. I will be the  
4 only one speaking however, so thank you.

5 MR. SUNG: Good morning, Your Honors. For Patent  
6 Owners Microsurgical Technology, Inc., and the Regents of the  
7 University of California I am Lawrence Sung on behalf of the  
8 Patent Owners. With me in the room today is Teresa Summers  
9 and Jasmine Su.

10 JUDGE FLAX: Great. Thank you very much. One thing  
11 that I will ask is that when we are all finished today, if counsel  
12 would stay on the line for a minute after we go off the record in  
13 case the court reporter has any questions about how to spell  
14 things or anything that was said during the argument. Okay. So  
15 moving to the motions. Each side, Patent Owner and Petitioner  
16 have motions to exclude the others' evidence at trial here. We  
17 can start with the Petitioner's Motion to Exclude. That's paper  
18 52 and what I suggest is that you can go ahead and take as much  
19 time as you want, I guess your 15 minutes to argue it. Each side  
20 can also take five minutes afterwards to respond to whatever the  
21 other side had to argue about their motions. So if you want to go  
22 ahead and begin, Mr. Tucker.

23 MR. TUCKER: Thank you, Your Honor. First off, may it  
24 please the Court. The Motion to Exclude that Petitioner's filed



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