

Filed on behalf of: Gold Standard Instruments, LLC

Paper _____

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

US ENDODONTICS, LLC,
Petitioner,

v.

GOLD STANDARD INSTRUMENTS, LLC,
Patent Owner.

Case PGR2015-00019
Patent 8,876,991 B2

PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Gold Standard

Instruments, LLC, objects to the following evidence submitted by Petitioner with its Petition for Post Grant Review of U.S. Patent No. 8,876,991 B2 (Paper No. 1).¹

Evidence Submitted by Petitioner	Patent Owner's Objections
Ex. 1002 (Declaration of A. Jon Goldberg)	Paragraph 104 is objected to as improper hearsay for which Petitioner has not established any exception (FRE 801) and is further objected to as lacking foundation, assuming facts not in evidence, containing testimony on matters in which the witness lacks personal knowledge, and/or for being conclusory (FRE 602, 702, 703, & 705). Paragraphs 103 and 105-107 are objected to for lack of authentication (FRE 901).
Ex. 1004 (Fujio Miura <i>et al.</i> , <i>The super-elastic property of the Japanese NiTi alloy wire for use in orthodontics</i> , 90 AM. J. ORTHODONTICS & DENTOFACIAL ORTHOPEDICS 1 (1986))	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403) and as improper hearsay for which Petitioner has not established any exception (FRE 801).
Ex. 1005 (Satish B. Alapati, "An investigation of phase transformation mechanisms for nickel-titanium rotary endodontic instruments," PhD thesis, 2006)	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403), as improper hearsay for which Petitioner has not established any exception (FRE 801), and for lack of authentication (FRE 901).

¹ References to the Federal Rules of Evidence are denoted as "FRE."

Evidence Submitted by Petitioner	Patent Owner's Objections
Ex. 1006 (Alan R. Pelton <i>et al.</i> , Optimisation of Processing and Properties of Medical-Grade Nitinol Wire, 9 Minimally Invasive Therapies & Allied Techs. 107 (2000))	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403) and as improper hearsay for which Petitioner has not established any exception (FRE 801).
Ex. 1007 (U.S. Patent No. 5,697,906 to Ariola <i>et al.</i>)	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403) and as improper hearsay for which Petitioner has not established any exception (FRE 801).
Ex. 1008 (Prosecution history of U.S. Patent No. 8,727,773)	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403) and as improper hearsay for which Petitioner has not established any exception (FRE 801).
Ex. 1009 (Prosecution history of U.S. Patent No. 8,083,873)	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403) and as improper hearsay for which Petitioner has not established any exception (FRE 801).
Ex. 1010 (Prosecution history of U.S. Patent No. 8,062,033)	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403) and as improper hearsay for which Petitioner has not established any exception (FRE 801).
Ex. 1011 (U.S. Patent No. 8,727,773)	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403) and as improper hearsay for which Petitioner has not established any exception (FRE 801).

Evidence Submitted by Petitioner	Patent Owner's Objections
Ex. 1012 (Prosecution history of European Patent Application No. 05756629.1)	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403) and as improper hearsay for which Petitioner has not established any exception (FRE 801).
Ex. 1013 (Transcript of Motion Hearing, Nov. 25, 2014, <i>Dentsply International, Inc. v. US Endodontics, LLC</i> , Docket No. CV-2-14-196 (E.D. Tenn.) (excerpts))	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403), as improper hearsay for which Petitioner has not established any exception (FRE 801), and as incomplete (FRE 106).
Ex. 1014 (International Standard ISO 3630-1, 2 nd ed. (2008))	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403) and as improper hearsay for which Petitioner has not established any exception (FRE 801).
Ex. 1015 (Declaration of Walter Zanes)	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403) and as improper hearsay for which Petitioner has not established any exception (FRE 801).
Ex. 1016 (Edgar Schäfer <i>et al.</i> , <i>Bending Properties of Rotary Nickel-Titanium Instruments</i> , 96 ORAL SURGERY ORAL MEDICINE ORAL PATHOLOGY 757 (2003))	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403) and as improper hearsay for which Petitioner has not established any exception (FRE 801).
Ex. 1017 (Luca Testarelli <i>et al.</i> , <i>Bending Properties of a New Nickel-Titanium Alloy with a Lower Percent by Weight of Nickel</i> , 37 J. ENDODONTICS 1293 (2011))	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403) and as improper hearsay for which Petitioner has not established any exception (FRE 801).

Evidence Submitted by Petitioner	Patent Owner's Objections
Ex. 1018 (Declaration of Adam Kozak)	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403), as improper hearsay for which Petitioner has not established any exception (FRE 801), and for lack of authentication (FRE 901).
Ex. 1019 (Excerpts of Expert Report of Robert Sinclair, Ph.D., <i>Dentsply International, Inc. v. US Endodontics, LLC</i> , Docket No. CV-2-14-196 (E.D. Tenn.))	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403), as improper hearsay for which Petitioner has not established any exception (FRE 801), and as incomplete (FRE 106).
Ex. 1020 (Alan R. Pelton et al., <i>The Physical Metallurgy of Nitinol for Medical Applications</i> , 55 J.METALS 33-37 (May 2003))	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403) and as improper hearsay for which Petitioner has not established any exception (FRE 801).
Ex. 1021 (S. Miyazaki et al., <i>Characteristics of Deformation and Transformation Pseudoelasticity in Ti-Ni Alloys</i> , 43 J. PHYSIQUE COLLOQUES C4-255 (1982))	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403) and as improper hearsay for which Petitioner has not established any exception (FRE 801).
Ex. 1025 (U.S. Patent Application Publication No. US 2006/0115786 A1 to Matsutani et al.)	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403) and as improper hearsay for which Petitioner has not established any exception (FRE 801).
Ex. 1026 (Japanese Unexamined Patent Application Publication No. 2006-149675, Matsutani et al.)	This exhibit is objected to as irrelevant to the grounds upon which trial has been instituted (FRE 401-403) and as improper hearsay for which Petitioner has not established any exception (FRE 801).

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