

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

**PETITIONER'S SECOND SET OF OBJECTIONS
TO PATENT OWNER'S EXHIBITS**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner US Endodontics, LLC (“US Endo”) submits the following objections to Exhibits 2027, 2030, 2031, 2034, 2035, 2036 and 2038 submitted by Patent Owner Gold Standard Instruments, LLC (“GSI”), and any reference to or reliance on the foregoing. Pursuant to 37 C.F.R. § 42.62, US Endo’s objections apply the Federal Rules of Evidence.

I. OBJECTIONS TO EXHIBIT 2027

Exhibit 2027 is described by GSI as “ISO/CD 3630-1, ‘Dentistry - Root-canal instruments - Part 1: General requirements,’ International Organization for Standardization, First Edition (June 30, 2004).” (Paper No. 28, p. 5.)

US Endo objects to Exhibit 2027 as irrelevant, under Fed. R. Evid. 401, to the grounds upon which this proceeding has been instituted, and therefore, inadmissible under Fed. R. Evid. 402-403.

US Endo further objects to Exhibit 2027 under Fed. R. Evid. 901 for lack of authentication.

II. OBJECTIONS TO EXHIBIT 2030

Exhibit 2030 is described by GSI as “U.S. Patent No. 7,967,605 (Filed June 28, 2011).” (Paper No. 28, p.5.)

US Endo objects to Exhibit 2030 as irrelevant, under Fed. R. Evid. 401, to the grounds upon which this proceeding has been instituted, and therefore, inadmissible under Fed. R. Evid. 402-403.

US Endo further objects to Exhibit 2030 under Fed. R. Evid. 802 as constituting inadmissible hearsay for which GSI has not established any exception.

III. OBJECTIONS TO EXHIBIT 2031

Exhibit 2031 is described by GSI as “U.S. Provisional Patent Application Serial No. 61/263,192, filed on Nov. 11, 2009.” (Paper No. 28, p.5.)

US Endo objects to Exhibit 2031 as irrelevant, under Fed. R. Evid. 401, to the grounds upon which this proceeding has been instituted, and therefore, inadmissible under Fed. R. Evid. 402-403.

US Endo further objects to Exhibit 2031 under Fed. R. Evid. 802 as constituting inadmissible hearsay for which GSI has not established any exception.

US Endo further objects to Exhibit 2031 under Fed. R. Evid. 901 for lack of authentication.

IV. OBJECTIONS TO CITED PORTIONS OF EXHIBIT 2034

Exhibit 2034 is described by GSI as “File History for U.S. Patent Application Serial No. 14/522,013.” (Paper No. 28, p. 5.) Patent Owner cited portions of Exhibit 2034 in its Response to Petition for Post-Grant Review.

US Endo objects to the cited portions of Exhibit 2034 under Fed. R. Evid. 802 and 805 as constituting inadmissible hearsay for which GSI has not established any exception.

US Endo further objects to the cited portions of Exhibit 2034 under Fed. R. Evid. 901 for lack of authentication.

V. OBJECTIONS TO EXHIBIT 2035

Exhibit 2035 is described by Patent Owner as “Kowalski Heat Treating Company Certification, date Jan. 15, 2016.” (Paper No. 28, p. 5.)

US Endo objects to Exhibit 2035 under Fed. R. Evid. 802 and 805 as constituting inadmissible hearsay for which GSI has not established any exception.

US Endo further objects to Exhibit 2035 under Fed. R. Evid. 901 for lack of authentication.

VI. OBJECTIONS TO EXHIBIT 2036

Exhibit 2036 is described by Patent Owner as “KMT ProFile Rotary File ISO 3630-1 Section 7.5 Stiffness Testing Final Report, dated Jan [sic] 18, 2016.” (Paper No. 28, p. 5.)

US Endo objects to Exhibit 2036 under Fed. R. Evid. 802 as constituting inadmissible hearsay for which GSI has not established any exception.

US Endo further objects to Exhibit 2036 under Fed. R. Evid. 901 for lack of authentication.

VII. OBJECTIONS TO EXHIBIT 2038

Exhibit 2038 is described by Patent Owner as “Email communications

between Dr. Neill H. Luebke and Bobby Bennett, dated June 27, 2010 and July 6, 2010.” (Paper No. 28, p. 5.)

US Endo objects to Exhibit 2038 under Fed. R. Evid. 802 as constituting inadmissible hearsay for which GSI has not established any exception.

Dated: May 13, 2016

/Jeffrey S. Ginsberg/

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