

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
GREENEVILLE

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| 4 | DENTSPLY INTERNATIONAL, | . | DOCKET NO. CV-2-14-196 |
| 5 | INC. AND TULSA DENTAL | . | |
| 6 | PRODUCTS LLC D/B/A TULSA | . | |
| 7 | DENTAL SPECIALTIES, | . | |
| 8 | | . | |
| 9 | PLAINTIFFS, | . | |
| 10 | | . | |
| 11 | | . | |
| 12 | VS. | . | GREENEVILLE, TN |
| 13 | | . | NOVEMBER 25, 2014 |
| 14 | US ENDODONTICS, LLC, | . | 9:05 A.M. |
| 15 | | . | VOLUME I |
| 16 | DEFENDANT. | . | |
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TRANSCRIPT OF MOTION HEARING
BEFORE THE HONORABLE J. RONNIE GREER
UNITED STATES DISTRICT JUDGE

1 APPEARANCES:

2 FOR THE PLAINTIFFS: ROTHWELL, FIGG, ERNST &
3 MANBECK, P.C.
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22 COURT REPORTER: KAREN J. BRADLEY
23 RPR-RMR
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PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY, TRANSCRIPT
PRODUCED BY COMPUTER.

1 AND, SECOND OF ALL, YOU CAN IMAGINE IF WE -- IF YOU -- IF
2 WE GO BACK TO THE, TO THE ORIGINAL DRAWING ON THE 4A,
3 THOSE ARE DELICATE ROOTS; AND IF YOU START TAKING A LOT OF
4 STRUCTURE OUT OF THERE BECAUSE YOU WANT IT LARGER, YOU'RE
5 GOING TO START TO COMPROMISE THE TOOTH, AND THAT'S WHAT
6 HAPPENED. AND THE ENDODONTIC SOCIETY SAID, WAIT A MINUTE,
7 WE'RE TAKING OUT TOO MUCH, WE'VE GOT TO STOP, THESE
8 GREATER TAPERS ARE KILLING THESE TEETH.

9 Q. NOW, DR. LUEBKE, IN YOUR PRACTICE WERE YOU STILL
10 GETTING -- WITHDRAWN. DR. LUEBKE, WERE DENTISTS STILL
11 GETTING ZIPPING, LEDGING AND PERFORATING WITH THE
12 NICKEL-TITANIUM FILES?

13 A. WELL, SURE, BECAUSE THE THING ABOUT THE
14 NICKEL-TITANIUM, IT'S -- I'M GOING TO USE SOME TERMS --
15 IT'S A SHAPE MEMORY ALLOY.

16 COURT REPORTER: IT'S A WHAT?

17 A. A SHAPE MEMORY ALLOY, S M A. AND WHAT THAT MEANS IS
18 THAT IT'S SUPERELASTIC AND IT HAS SHAPE MEMORY. WHAT IT
19 WANTS TO BE IS IT WANTS TO BE STRAIGHT; AND AS I DEMON-
20 STRATED BEFORE, WE BEND THE FILE, IT STILL WANTS TO BE
21 STRAIGHT. SO WHEN I ENTER A CANAL, EVEN THOUGH IT'S MORE
22 FLEXIBLE THAN A STAINLESS STEEL, IT STILL WANTS TO BE
23 STRAIGHT. SO YOU CAN STILL LEDGE, YOU CAN STILL ZIP, YOU
24 CAN STILL STRIP, YOU CAN STILL DO ALL THE THINGS THAT YOU
25 DID, AND WITH A ROTARY YOU CAN DO IT FASTER.

1 Q. AND IN ADDITION TO USING THE NICKEL-TITANIUM FILES
2 ONLY BY HAND IN YOUR PRACTICE, DID YOU DO ANYTHING TO TRY
3 TO ADDRESS THIS PROBLEM?

4 A. WELL, I APPROACHED IT AS A RESEARCH PROJECT AGAIN,
5 AND SO I -- IN 1995 I STARTED TO TAKE THE NICKEL-TITANIUM,
6 AND AGAIN I USED THE -- I ALREADY MENTIONED THE ISO
7 3630-1, I STARTED TO TEST THE FILES IN 1985 DOWN AT ADA
8 AND TRIED TO SEE WHAT WAS GOING ON WITH THEM. I HAD A
9 PROJECT THAT I WAS WRITING A PAPER FOR, SO IN '98 I WENT
10 OVER TO SWITZERLAND TO THE MAILLEFER COMPANY, WHICH I HAD
11 WORKED AT DOING RESEARCH THERE BEFORE; AND I WORKED IN '98
12 ON THE NICKEL-TITANIUM TRYING TO DETERMINE WHAT WAS GOING
13 ON, AND I WASN'T GETTING WHERE I WANTED TO GET TO. THERE
14 HAD TO BE A PARADIGM SHIFT SOMEWHERE.

15 Q. WHAT ADDITIONAL WORK DID YOU DO TO TRY TO ADDRESS
16 THE PROBLEM WITH THE UNHEATED NICKEL-TITANIUM BREAKING IN
17 THE TEETH?

18 A. MY FIRST THOUGHT WAS THAT MAYBE THEY WEREN'T SHARP
19 ENOUGH AND WHAT WAS HAPPENING IS THEY WERE DULLING; AND AS
20 THEY WERE WORKING AND WORKING AND WORKING, THEY WERE
21 BREAKING, SO THEY WERE IN TOO LONG, THEY WEREN'T CUTTING
22 AND GETTING OUT. SO MY FIRST THOUGHTS WERE WHAT IF I WERE
23 TO DIAMOND COAT THAT. WELL, THERE'S SEVERAL PROBLEMS WITH
24 DIAMOND COATING THE INSTRUMENTS AFTER I MET WITH THE
25 DIAMOND COATERS, AND I SOON ABANDONED THAT; AND I'M TRYING

1 TO MODIFY THE INSTRUMENT, CUTTING WITH -- OKAY, LET'S CUT
2 IT. NO, THAT DIDN'T WORK, BUT I KNOW -- I STILL THINK
3 SHARPNESS IS THE IDEA. SO THERE'S A HEAT TREATING COMPANY
4 IN MY LITTLE TOWN, AND I DON'T KNOW IF YOU'VE BEEN TO THE
5 HARDWARE STORE AND YOU SEE THESE GOLD COATED DRILLS THAT
6 CUT BETTER, AND THEY TALK ABOUT IT, THEY COAT THAT WITH
7 SOMETHING CALLED TIN, AND THAT'S SHORT FOR TITANIUM
8 NITRIDE; AND THE PROCESS -- I'LL TRY NOT TO BORE YOU, BUT
9 THE PROCESS IS THEY PUT IT IN A HEATED CHAMBER. THEY PUT
10 NITROGEN AROUND THE INSTRUMENT THEY'RE WORKING ON, IN THIS
11 CASE IT'S MY DENTAL INSTRUMENT, AND THEN THERE'S A
12 TITANIUM ROD THAT THEY PUT A CURRENT ACROSS AND ATOMIZE
13 IT, AND THE NITROGEN AND THE TITANIUM GLOB ONTO
14 THE WHATEVER IS INSIDE. THAT MAKES IT SHARP. SO I DID
15 THAT, AND I WENT DOWN TO THE AMERICAN DENTAL ASSOCIATION,
16 THE ADA, AND I TESTED THEM AGAIN, 3630-1. WOW, THEY WERE
17 STARTING TO, STARTING TO DO ALL RIGHT; AND SO I THEN
18 CONTACTED MAILLEFER AND SAID, I'M GOING TO SEND YOU SOME
19 FILES, LET'S TEST THESE OVER AT YOUR PLACE; AND I KIND OF
20 LIKE TO THINK MAYBE I HAD -- I HAD SOME PROBLEMS WITH THE
21 TIN COATING, SO I SAID, WHY DON'T WE JUST REMOVE THE TIN
22 AND WHY DON'T WE JUST DO THE HEAT.

23 Q. DID YOU HAVE AN NDA WITH MAILLEFER AT THIS TIME?

24 A. YES, I HAD A NDA WITH MAILLEFER.

25 Q. AND WHERE IS MAILLEFER LOCATED?