

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

U.S. ENDODONTICS, LLC,
Petitioner,

v.

GOLD STANDARD INSTRUMENTS, LLC,
Patent Owner.

Case PGR2015-00019
Patent 8,876,991 B2

Held: October 19, 2016

BEFORE: JOSIAH C. COCKS, HYUN J. JUNG, and
TIMOTHY J. GOODSON, Administrative Patent Judges.

The above-entitled matter came on for hearing on Wednesday,
October 19, 2016, commencing at 1:30 p.m., at the U.S. Patent
and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

Case PGR2015-00019
Patent 8,876,991 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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ON BEHALF OF PATENT OWNER:

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1 Now, as we set forth in the trial hearing order, each side
2 has 45 minutes of argument time. The Petitioner will present
3 their case first, and may reserve rebuttal time. The Patent Owner
4 will then argue their opposition to the Petitioner's case, and
5 because they have filed a motion to exclude, you may present any
6 arguments you would like with respect to the motion to exclude,
7 and in connection thereof, you may reserve rebuttal time. Then
8 the Petitioner will then use any time they have reserved to
9 respond to all aspects of the Patent Owner's case, and we will
10 conclude with the Patent Owner using any time they have
11 reserved in connection with the motion to exclude.

12 I would also like to address Petitioner's notice of
13 objections to the Patent Owner's demonstratives. I believe you
14 had objected to ten slides on the basis essentially that some of the
15 slides add new argument and some address content that you seek
16 to exclude as a part of your motion to exclude. Let me tell the
17 parties the following: Certainly demonstratives should not
18 contain new argument, they are simply visual aids to highlight
19 argument that has already been briefed, but to the extent that they
20 do, it will not factor into our final written decision.

21 Also, with respect to the motion to exclude, we have not
22 decided either party's motion to exclude at this point. To the
23 extent that we do grant either motion or portions of either motion,
24 any content that is excluded also will not factor into our final
25 written decision. So, we have taken note of your objections, but

1 we are not going to prohibit the display of any of the
2 demonstratives today.

3 All right, all of that being said, Mr. Ginsberg, you may
4 begin when you are ready.

5 MR. GINSBERG: Good afternoon, Your Honors. As
6 mentioned, my name is Jeff Ginsberg, and I am with the law firm
7 of Patterson Belknap representing the Petitioner U.S. Endodontics
8 in this proceeding.

9 As the Board is aware, this proceeding concerns U.S.
10 Patent Number 8,876,991 to Neill Luebke. Now, the alleged
11 invention concerns heat treating an endodontic instrument that
12 includes a superelastic nickel titanium component so that it
13 fractures less during use and is better able to negotiate the root
14 canal without damaging the tooth. This can be found right in the
15 exhibit of the patent at 1001, at column 9, lines 22 to 23.

16 What's on slide 2 here is a picture of an endodontic
17 instrument, this is taken from Exhibit 2007.

18 JUDGE COCKS: Mr. Ginsberg, I'm sorry to interrupt,
19 are you going to reserve rebuttal time?

20 MR. GINSBERG: I apologize, Your Honor. Yes, I
21 would like to reserve 15 minutes for rebuttal time.

22 JUDGE COCKS: Thank you.

23 MR. GINSBERG: Continuing with slide 2 of Plaintiff's
24 demonstratives -- I'm sorry, with Petitioner's demonstratives,
25 what is shown here is an endodontic file. As you can see, there's

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