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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
GREENEVILLE

DENTSPLY INTERNATIONAL,	.	DOCKET NO. CV-2-14-196
INC. AND TULSA DENTAL	.	
PRODUCTS LLC D/B/A TULSA	.	
DENTAL SPECIALTIES,	.	
	.	
PLAINTIFFS,	.	
	.	
VS.	.	GREENEVILLE, TN
	.	JUNE 14, 2016
US ENDODONTICS, LLC,	.	8:57 A.M.
	.	VOLUME I
DEFENDANT.	.	
	.	
.	

TRANSCRIPT OF MARKMAN HEARING
BEFORE THE HONORABLE J. RONNIE GREER
UNITED STATES DISTRICT JUDGE

1 APPEARANCES:

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22 COURT REPORTER: KAREN J. BRADLEY
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25 PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY, TRANSCRIPT
PRODUCED BY COMPUTER.

1 Q. IS THE HANDLE SECURELY AFFIXED TO THE SHANK?

2 A. I'M ASSUMING THAT IT IS.

3 Q. IT'S DESIGNED SO THAT IT WOULD NOT COME OFF DURING
4 THE ROOT CANAL PROCEDURE; CORRECT?

5 A. I'M ASSUMING IT IS.

6 Q. THERE'S STANDARDS THAT ACTUALLY APPLY TO ROOT CANAL
7 INSTRUMENTS, INCLUDING WHETHER OR NOT A HANDLE CAN EASILY
8 COME OFF; CORRECT?

9 A. THAT IS CORRECT.

10 Q. IF THE HANDLE CAME OFF AND YOU WERE USING THIS IN
11 CONNECTION WITH AN ENGINE-DRIVEN INSTRUMENT, YOU WOULD
12 HAVE TO STOP THE PROCEDURE; CORRECT?

13 A. IF YOU WERE USING A ROTARY INSTRUMENT, YOU WOULD
14 HAVE TO STOP.

15 Q. I BELIEVE DURING YOUR DEPOSITION IN ALL OF YOUR
16 THOUSANDS OF ENDODONTIC PROCEDURES, THE HANDLE ONLY CAME
17 OFF A COUPLE OF TIMES; CORRECT?

18 A. THAT IS CORRECT.

19 Q. AND YOU HAD TO STOP AND GET A NEW INSTRUMENT THAT
20 INCLUDED A HANDLE AND A SHANK; CORRECT?

21 A. THAT WOULD BE CORRECT.

22 Q. AND YOU DON'T KNOW WHAT THAT HANDLE IS MADE OF;
23 CORRECT?

24 A. WHICH HANDLE?

25 Q. THE HANDLE ON THE PROTAPER FILE IN FRONT OF YOU.

1 A. I CAN CATEGORIZE IT AS METAL.

2 Q. IF YOU HEAT TREATED THAT AT 400 DEGREES CELSIUS,
3 WHAT WOULD HAPPEN TO IT? WOULD IT COMPLETELY EVAPORATE?

4 A. NO.

5 Q. WHAT WOULD HAPPEN TO IT?

6 A. I DON'T KNOW WHETHER IT'S SWEDGED ON OR GLUED ON,
7 BUT IT WOULD COME OFF.

8 Q. DO YOU KNOW HOW IT'S SECURED?

9 A. I DO NOT.

10 Q. AND YOU CAN'T PULL THAT HANDLE OFF; CORRECT? IT'S
11 AFFIXED TO THE SHANK?

12 A. OH, I COULD PULL IT OFF; NOT, NOT HERE, NOT IN THESE
13 SITUATIONS; BUT, SURE, I COULD PULL IT OFF.

14 Q. HOW WOULD YOU PULL IT OFF?

15 A. I MEAN, I'D PUT IT IN A PULL TEST.

16 Q. SO YOU WOULD PUT IT IN A VICE AND THEN HAVE THE --

17 A. THERE'S A, THERE'S A STANDARD FOR IT, 3630-1.

18 Q. BECAUSE THE FILES ARE DESIGNED SO THAT THAT HANDLE
19 DOES NOT COME OFF DURING A ROOT CANAL PROCEDURE;
20 CORRECT?

21 A. DURING NORMAL OPERATIONS THE HANDLE IS NOT SUPPOSED
22 TO COME OFF, THAT'S CORRECT.

23 Q. NOW, TO DATE I BELIEVE YOU MENTIONED THAT DENTSPLY
24 HAS PAID YOU JUST A LITTLE BIT OVER \$1,000,000 IN
25 ROYALTIES; IS THAT CORRECT?

1 A. I BELIEVE I SAID THAT.

2 Q. DO YOU KNOW WHAT THE EXACT NUMBER OF ROYALTIES IS
3 THAT YOU HAVE BEEN PAID TO DATE?

4 A. I DO NOT.

5 Q. WHEN IS THE LAST TIME YOU LOOKED THAT UP?

6 A. I DIDN'T LOOK IT UP.

7 Q. THEN WHAT ARE YOU BASING ON -- HOW DID YOU DETERMINE
8 THAT YOU'VE BEEN PAID OVER \$1,000,000?

9 A. USUALLY MY WIFE TELLS ME.

10 Q. THERE'S A DOCUMENT THAT WAS PRODUCED ON THE EVE OF
11 YOUR DEPOSITION ALONG WITH THOUSANDS OF OTHER DOCUMENTS
12 THAT WE DIDN'T HAVE A CHANCE TO REVIEW IT. LET ME JUST
13 PUT THIS UP ON THE SCREEN HERE. DO YOU RECOGNIZE THIS
14 DOCUMENT, DR. LUEBKE? IT'S BEEN MARKED LUEBKE, IT'S BEEN
15 MARKED WITH INTRODUCTION OF LUEBKE 000267.

16 A. YES.

17 Q. WHAT IS THIS DOCUMENT?

18 A. WHAT IS IT?

19 Q. YES.

20 A. IT SAYS, DENTSPLY PAYMENTS.

21 Q. DOES THIS REFLECT THE PAYMENTS THAT DENTSPLY HAS
22 MADE TO YOU OR YOUR COMPANY SO FAR?

23 A. I, I, I WOULD GUESS SO.

24 Q. AND I DID THE MATH, IT'S CLOSE TO \$1,400,000. DO
25 YOU AGREE WITH THAT MATH? THAT WOULD INCLUDE THE SIGNING

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