

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTUITIVE SURGICAL, INC.

Petitioner

v.

ETHICON LLC

Patent Owner

Case IPR2018-01247
U.S. Patent No. 8,479,969

PETITIONER'S OBJECTIONS TO EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner, Intuitive Surgical, Inc.

(“Petitioner”), hereby submits its notice of objections to certain evidence that Patent Owner, Ethicon LLC (“Patent Owner”), submitted with its Patent Owner’s Sur-Reply dated August 19, 2019, in connection with IPR2018-01247.

Petitioner objects to Exhibit No. 2023 (“Defendants’ Opening Claim Construction Brief, Ethicon v. Intuitive Surgical, Inc., C.A. 17-871, D.I. 116 (D. Del. June 28, 2018”), Exhibit 2024 (“Defendants’ Responsive Claim Construction Brief, Ethicon v. Intuitive Surgical, Inc., C.A. 17-871, D.I. 127 (D. Del. Aug. 1, 2018)”) and Exhibit 2027 (“Notice of Waiver of Appeal Regarding the Court’s Order Invalidating the January 2018 Certificate of Correction Relating to U.S. Patent No. 8,479,969, Ethicon v. Intuitive Surgical, Inc., C.A. 17-871, D.I. 311 (D. Del.)”). The bases for objecting to these exhibits is under Rules 402/403 and that they were filed untimely and without prior Board authorization.

Respectfully submitted,

Dated: August 23, 2019

/Steven R. Katz/
Steven Katz, Reg. No. 43,706
John C. Phillips, Reg. No. 35,322
Ryan O'Connor, Reg. No. 60,254
Fish & Richardson P.C.
3200 RBC Plaza, 60 South Sixth Street
Minneapolis, MN 55402
T: 858-678-5070
F: 877-769-7945
Attorneys for Petitioner

CERTIFICATE OF SERVICE

Pursuant to 37 CFR §§ 42.6(e)(1) and 42.6(e)(4)(iii), the undersigned certifies that on August 23, 2019, a complete and entire copy of this Petitioner's Objections to Evidence was provided via email to the Patent Owner by serving the email correspondence addresses of record as follows

Anish R. Desai
Elizabeth Stotland Weiswasser
Adrian Percer
Christopher T. Marando
Christopher M. Pepe
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153

Email: Ethicon.IPR.Service@weil.com

/Diana Bradley/
Diana Bradley
Fish & Richardson P.C.
3200 RBC Plaza
60 South Sixth Street
Minneapolis, MN 55402
(858) 678-5667