

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In the *Inter Partes* Review of:

U.S. Patent No. 8,092,454

Filed: March 11, 2005

Issued: January 10, 2012

Named Inventor: Gary W. Sohngen

Recorded Assignee: Advanced  
Orthopaedic Solutions, Inc.

Title: Fixation Instrument for Treating  
a Bone Fracture

Trial Number: To Be Assigned

Panel: To Be Assigned

---

Mail Stop *Inter Partes* Review  
Commissions for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 8,092,454**  
**UNDER 35 U.S.C. § 311 AND 37 C.F.R. § 42.100**

## TABLE OF CONTENTS

I.	Introduction.....	1
II.	Compliance with Requirements for <i>Inter Partes</i> Review .....	1
A.	Mandatory Notices (37 C.F.R. § 42.8(a)(1)).....	1
a.	Real Party-in-Interest (37 C.F.R. § 42.8(b)(1)) .....	1
b.	Related Matters (37 C.F.R. § 42.8(b)(2)) .....	1
c.	Designation of Lead and Backup Counsel and Service Information (37 C.F.R. §§ 42.8(b)(3)-(4)).....	2
B.	Fee for <i>Inter Partes</i> Review (37 C.F.R. § 42.103).....	2
C.	Grounds for Standing (37 C.F.R. § 42.104(a)) .....	3
III.	Identification of Challenge (37 C.F.R. § 42.104(b)).....	3
IV.	Relevant Background of the '454 Patent.....	5
A.	Level of Ordinary Skill .....	5
B.	Description of the Alleged Invention of the '454 Patent .....	5
C.	Summary of the Prosecution History of the '454 Patent .....	6
V.	Claim Construction.....	9
A.	“a plurality of longitudinal extending grooves”.....	9
B.	“cap” .....	10
VI.	Reasonable Likelihood that Claims 6-11, 13-15, and 19-20 Are Unpatentable .....	12
A.	Summary of Prior Art.....	12
B.	GROUND 1: Claims 6, 7, 9, 10, and 13 are anticipated by Shavit under 35 U.S.C. § 102.....	14
a.	Claim 6 Is Anticipated by Shavit.....	14

b.	Claim 7 Is Anticipated By Shavit .....	20
c.	Claim 9 Is Anticipated By Shavit .....	21
d.	Claim 10 Is Anticipated By Shavit .....	22
e.	Claim 13 Is Anticipated by Shavit .....	24
C.	GROUND 2: Claims 8 is rendered obvious by Shavit in view of Kilpela under 35 U.S.C. § 103(a).....	27
D.	Ground 3: Claims 14, 15, 19 and 20 are rendered obvious by Shavit in view of Kilpela under 35 U.S.C. § 103(a) .....	31
a.	Claim 14 Is Rendered Obvious by Shavit in View of Kilpela..	31
b.	Claim 15 Is Rendered Obvious by Shavit in View of Kilpela..	33
c.	Claim 19 Is Rendered Obvious by Shavit in View of Kilpela..	34
d.	Claim 20 Is Rendered Obvious by Shavit in View of Kilpela..	39
E.	GROUND 4: Claims 14, 15, 19 and 20 are rendered obvious by Shavit in view of Kilpela and Bramlet under 35 U.S.C. § 103(a) .....	40
a.	Claim 14 Is Rendered Obvious by Shavit in View of Kilpela and Bramlet .....	40
b.	Claim 15 Is Rendered Obvious by Shavit in View of Kilpela and Bramlet .....	45
c.	Claim 19 Is Rendered Obvious by Shavit in View of Kilpela and Bramlet under 35 U.S.C. § 103(a) .....	45
d.	Claim 20 Is Rendered Obvious by Shavit in View of Kilpela and Bramlet .....	47
F.	GROUND 5: Claim 11 is rendered obvious by Shavit in view of Bramlet under 35 U.S.C. § 103(a).....	47
VII.	Conclusion .....	48

## TABLE OF AUTHORITIES

### Cases

<i>Graham v. John Deere Co.</i> , 383 U.S. 1 (1966).....	28
<i>KSR Int'l Co. v. Teleflex, Inc.</i> , 550 U.S. 398 (2007).....	29, 35, 42
<i>Nano-Second Tech. Co. v. Dynaflex Int'l</i> , 944 F. Supp. 2d 855 (C.D. Cal. 2013) .....	35
<i>Nuvasive, Inc. v. Warsaw Orthopedic, Inc.</i> , IPR2013-00206 (PTAB Sept. 23, 2013).....	9
<i>Pharmatech Solutions, Inc., v. Lifescan Scotland</i> , IPR2013-00247 (Aug. 6, 2014) .....	35
<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005) .....	11

### Statutes

35 U.S.C. § 102 .....	3, 4, 14
35 U.S.C. § 102(a) .....	3
35 U.S.C. § 102(b) .....	4
35 U.S.C. § 102(e) .....	3
35 U.S.C. § 103 .....	3
35 U.S.C. § 103(a) .....	passim
35 U.S.C. § 112 .....	3
35 U.S.C. § 311 .....	1
35 U.S.C. § 315 .....	3
37 C.F.R. § 1.68 .....	5
37 C.F.R. § 42.10(b) .....	2

37 C.F.R. § 42.100 .....	1
37 C.F.R. § 42.100(b) .....	9
37 C.F.R. § 42.103 .....	2
37 C.F.R. § 42.104(a).....	3
37 C.F.R. § 42.104(b) .....	3
37 C.F.R. § 42.15(a).....	2
37 C.F.R. § 42.8(a)(1).....	1
37 C.F.R. § 42.8(b) .....	1
37 C.F.R. § 42.8(b)(2).....	1
37 C.F.R. §§ 42.8(b)(3)-(4).....	2

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.