

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

OTICON MEDICAL AB; OTICON MEDICAL LLC; WILLIAM
DEMANT HOLDINGS A/S,
Petitioner,

v.

COCHLEAR BONE ANCHORED SOLUTIONS AB,
Patent Owner.

Case IPR2017-01018
(Patent 7,043,040)

Record of Oral Hearing
Held: July 11, 2018

Before JAMES B. ARPIN, BARBARA A. PARVIS, and AMANDA
F. WIEKER, *Administrative Patent Judges*.

Case IPR2017-01018
(Patent 7,043,040)

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing on Wednesday, July 11, 2018, commencing at 1:30 p.m. at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

1 P-R-O-C-E-E-D-I-N-G-S

2 1:28 p.m.

3 JUDGE WIEKER: Good afternoon, everyone. This is an oral
4 hearing for Case Number IPR2017-01018 to which IPR2017-01019
5 has been consolidated, between Petitioner Oticon Medical AB, Oticon
6 Medical LLC and William Demant Holding A/S, and Patent Owner
7 Cochlear Bone Anchored Solutions AB.

8 This proceeding concerns U.S. Patent Number 7,043,040.

9 I am Judge Wieker. I am accompanied by Judge Parvis and
10 Judge Arpin, with Judge Arpin appearing remotely.

11 I would like to ask counsel for the parties to please introduce
12 yourselves for the record, starting with Petitioner.

13 MR. ANDERSON: Yes. Richard Anderson for the Petitioner
14 Oticon Medical. I am joined by co-counsel Eugene Perez.

15 JUDGE WIEKER: Thank you.

16 And Patent Owner.

17 JUDGE ARPIN: Counsel, Judge Wieker, I'd just like to ask
18 counsel to step to the podium before you speak. If you speak away
19 from the podium, I cannot hear you.

20 MS. BURSON: Good afternoon, Your Honors, Laura Burson
21 from Sheppard Mullin appearing on behalf of the Patent Owner

1 Cochlear. And also present with me today at counsel table is Bruce
2 Chapman of Sheppard Mullin.

3 JUDGE WIEKER: Thank you. And welcome to the Board.

4 As we stated in our hearing order, each party will have a total
5 of 45 minutes to present their argument. Petitioner will proceed first
6 and may reserve rebuttal time.

7 Patent Owner will then respond to Petitioner's case and may
8 not reserve rebuttal time.

9 Using any reserved time, Petitioner may respond to Patent
10 Owner's case.

11 I would like to remind the parties that this hearing is open to
12 the public and a full transcript of the hearing will become part of the
13 record. Also, we have received the parties Joint List of Objections to
14 Demonstrative Exhibits, which was entered into the record as Paper
15 47. We have taken these objections under advisement and do not plan
16 on ruling on them during today's hearing.

17 Moreover, the panel reminds the parties that demonstrative
18 exhibits will be considered only to the extent they are helpful to the
19 panel, articulate positions taken during today's hearing, and reflect
20 arguments or evidence already made of record during the trial.

21 Lastly, please bear in mind that Judge Arpin is attending the
22 hearing by video. Please speak clearly and identify any demonstrative

1 exhibit by slide number to ensure clarity of the record and to ensure
2 Judge Arpin can follow your presentation.

3 With that, Mr. Anderson, would Petitioner like to reserve any
4 rebuttal time?

5 MR. ANDERSON: Yes. Petitioner would like to reserve 10
6 minutes for rebuttal.

7 JUDGE WIEKER: Okay. And, Mr. Anderson, when you're
8 ready, you may begin.

9 MR. ANDERSON: Thank you.

10 Good afternoon, Your Honors, and may it please the Board,
11 this consolidated proceeding involves six instituted grounds and nine
12 dependent claims. The first four instituted grounds were reflected in
13 the 1018 petition. These grounds rely on obviousness based on the
14 Vanecloo reference primarily.

15 The second -- the last two instituted grounds were presented in
16 the 1019 petition. These grounds assert anticipation of claims 1 and
17 11 based on Hough, as well as obviousness of claim 12 as being
18 applicable under Hough and Leysieffer. These grounds are
19 summarized on Petitioner's demonstratives 2 and 3.

20 After institution of trial, the Patent Owner did disclaim claims
21 1 through 3 and 13. Claim 1 is a -- or was an independent apparatus
22 claim. Independent claim 13 was an independent method claim. So,

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