OPUS KSD INC.,

Petitioner

V.

INCISIVE SURGICAL, INC.,

Patent Owner

IPR2017-01438

Patent 8,821,517

PATENT OWNER OPPOSITION TO PETITIONER MOTION



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Statutes

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Cases

Commissioner v. McCoy, 484 U.S. 3 (1987)

37 CFR §42.51(a)2





Koninklijke Philips Electronics N.V. v. Cardiac Science Operating Co., 590 F.3d	l
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Apple, Inc. v. Achates Reference Publishing, Inc., IPR2013-00081 (PTAB, Mar.	
27 2013) (Paper 21 – Decision to Institute)	3



EXHIBIT LIST

- Ex.1001 U.S. Patent No. 8,821,517 ('517 Patent).
- Ex. 1002 Declaration of Charles Rogers, Phd.
- Ex.1003 U.S. Publication 2012/0325889 ('889 Publication).
- Ex.1004 Claims From Application No.13/796,798 ('798 Application).
- Ex.1005 Excerpt From '517 Patent File History.
- Ex.1006 U.S. Patent No. 5,489,287 ('287 Patent or Green).
- Ex.1007 Photos of Petitioner's Stapler.
- Ex.1008 Excerpt From '200 [sic] Patent File History.
- Ex. 1009 Letter from Patent Owner to Petitioner.
- Ex.1010 Photo of Commercial Patent Owner's Commercial Stapler.
- Ex.1011 Photo of Commercial Patent Owner's Commercial Stapler.
- Ex. 1012 Declaration of Peter Stokes.
- Ex.1013 Principles of Wound Management.
- Ex.1014 Pediatric Emergency Procedures.
- Ex.1015 Ethicon Wound Closure Manual.
- Ex.1016 U.S. Patent No. 3,716,058.
- Ex.1017 Declaration of H. V. Mendenhall, DVM, Phd.
- Ex.1018 Excerpt from '838 Application.

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