

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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OPUS KSD INC.,  
Petitioner,

v.

INCISIVE SURGICAL INC.,  
Patent Owner.

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Case IPR2017-01438  
Patent 8,821,517

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CORRECTED REPLY ON MOTION TO DEEM FACTS ADMITTED

## TABLE OF AUTHORITIES

### Statutes

35 U.S.C. §§311-314 ..... 1

### Regulations

37 C.F.R. §42 ..... passim

### Cases

*Guinn v. Kopf*, 96 F.2d 1419 (Fed. Cir. 1996) ..... 1

*Rembrandt Wireless Technologies, LP v. Samsung Electronics*,  
853 F.3d 1370 (Fed. Cir. 2017)..... 1

### Other Authorities

*Manual of Patent Examining Procedure* (MPEP) 2131.02..... 3

MPEP 2163(II)(A)(3)(a)(ii)..... 3

**LIST OF EXHIBITS**

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

1017	Declaration of H. V. Mendenhall, DVM, Phd
1018	Excerpt from '838 Application
1019	U.S. Publication No. 2009/0206127
1020	Patent Owner Flyer for Stapler
1021	Excerpt from '190 Application Prosecution History
1022	U.S. Patent No. 5,615,816
2001	Statutory Disclaimer
2002	Response to the "Amendments to the Rules of Practice for Trials Before the Patent Trial and Appeal Board," Fed. Reg. Vol. 80, No. 161 (August 20, 2015) (November 18, 2015)
2003	Excerpt from Application No. 13/604,190
2004	Excerpts from Application No. 15/145,194
2005	Excerpts from Application No. 13/796,798

### **Abbreviations and Definitions**

§42 means 37 C.F.R. §42.

'517 Patent means U.S. Patent No. 8,821,517

'889 Publication means U.S. Publication 2012/0325889

'798 Application means U.S. Application No.13/796,798

Board means the United States Patent Trial and Appeal Board

Federal Circuit means Court of Appeals for the Federal Circuit.

MPEP means Manual of Patent Examining Procedure

Office, PTO or USPTO means the United States Patent and Trademark Office

Patentee means the owner of the challenged patent, Incisive Surgical, Inc.

Petitioner means Opus KSD Inc.

SOF means the Statements of Material Fact set forth in the Petition.

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