

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD

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5 CORPAK MEDSYSTEMS, INC. and HALYARD HEALTH, INC.,

6
7 Petitioners,

8 vs.

9 KIRN MEDICAL DESIGN, L.L.C. and APPLIED MEDICAL
10 TECHNOLOGY, INC.,

11 Patent Owner.
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14 Inter Partes Review No.: IPR2017-01990

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16 TELEPHONE CONFERENCE

17 BEFORE THE PATENT TRIAL AND APPEAL BOARD

18 HONORABLE PATRICK R. SCANLON

19 HONORABLE JAMES A. WORTH

20 HONORABLE JAMES J. MAYBERRY

21 January 8, 2018

22 2:00 p.m.

23
24 Job No. 27313

25 Reported by: Carrie LaMontagne, CSR

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1 JUDGE SCANLON: Good afternoon. This is
2 Judge Scanlon convening the call in IPR2017-01990.
3 Joining me on the line are Judges Worth and Mayberry.
4 Let's start with the appearances.

5 Who is here for petitioner, please?

6 MR. McDERMOTT: Your Honors, this is
7 Rick McDermott of Alston & Bird. I'm lead counsel
8 for the petitioners. With me also is Jitendra Malik,
9 back-up counsel for the petitioner, also with Alston
10 & Bird.

11 JUDGE SCANLON: All right. Thank you.

12 Is anyone on for patent owner or AMT?

13 MR. YORK: Yes, your Honors. This is
14 Gregory York, lead counsel for patent owners,
15 particularly exclusive licensee AMT. And on the line
16 also is my colleague Chris Meta.

17 JUDGE SCANLON: Okay. Anyone else? Is
18 there a court reporter?

19 THE REPORTER: Yes. Carrie LaMontagne here
20 taking the record.

21 JUDGE SCANLON: Which party arranged for
22 the court reporter?

23 MR. McDERMOTT: The petitioners, your
24 Honor. This is Rick McDermott.

25 JUDGE SCANLON: All right. If you can at

1 your earliest convenience, when the transcript is
2 ready, file that as an exhibit, that would be
3 appreciated.

4 MR. McDERMOTT: Absolutely.

5 JUDGE SCANLON: Okay. So petitioner
6 requested this call in order to discuss a possible
7 lack of standing for AMT as exclusive licensee. So
8 we'll start with you, petitioner, if you want to tell
9 us what your thinking is on this.

10 MR. McDERMOTT: Sure. This is
11 Rick McDermott again. So an issue has come up with
12 respect to respondent AMT's potential lack of
13 standing to respond to the petition in this case on
14 its own. The patent owner with respect to the 715 is
15 Kirn Medical Design, LLC. That's is K-I-R-N. AMT is
16 an exclusive licensee.

17 The petitioners have examined and reviewed the
18 license agreement between Kirn Medical and AMT and do
19 not believe that that license agreement provides
20 sufficient rights in the patent to AMT for AMT to
21 represent this patent on its own in this proceeding.

22 There is a corresponding litigation in the
23 northern district of Ohio involving the same patent,
24 the 715 patent. In that case, rather than dispute
25 the issue of standings, AMT has agreed to add Kirn

1 Medical Design, LLC as a party plaintiff for purposes
2 of asserting the 715 patent.

3 In this case Kirn Medical Design, LLC has been
4 identified as a real party in this interest, although
5 only AMT filed the preliminary response. The
6 preliminary response is filed only on behalf of AMT.

7 Also, there is in this case a document that was
8 submitted by AMT with the mandatory disclosures. It
9 is a consent document consenting to AMT's defense of
10 the 715 patent by Kirn Medical, but there is no POA
11 submitted by Kirn Medical. And given the nature of
12 the license agreement, we're not certain that AMT
13 might need more than just a consent document in order
14 to represent the patent on its own and that Kirn may
15 be required to participate as a patent owner.

16 The petitioner is agreeable to AMT submitting a
17 revised POA and potentially an amended preliminary
18 response identifying Kirn Medical. We're just not
19 certain, given the certification, whether it was
20 permissible at this point or required at this point.

21 JUDGE SCANLON: I guess, can you -- so the
22 paper referred to -- I think it's paper five -- the
23 authorization given by Kirn Medical, you said but
24 there was no power of attorney.

25 Is it your position that that authorization by

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