

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTUITIVE SURGICAL, INC.,
Petitioner,

v.

ETHICON LLC,
Patent Owner.

Case IPR2019-00880
Patent 7,490,749

PETITIONER'S OBJECTIONS TO EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner, Intuitive Surgical, Inc. (“Petitioner”), hereby submits its notice of objections to certain evidence that Patent Owner, Ethicon LLC (“Patent Owner”), served on January 14, 2020 in connection with IPR2019-00880.

No.	Objections
2001	<p>FRE 401/402/403: Ex. 2001 is not cited in Ethicon’s Patent Owner Response and, therefore, lacks sufficient relevance to outweigh the confusion and prejudice it introduces.</p> <p>FRE 801/802: The statements made in Ex. 2001, as relied upon in Ex. 2008, are inadmissible hearsay. Each relied upon statement is represented as being made outside of this proceeding and is offered “for its truth” as to the alleged activities. Because Ethicon has not identified any applicable hearsay exception for the relied upon statements, Ex. 2001 constitutes inadmissible hearsay.</p> <p>FRE 901: Exhibit 2001 is inadmissible for lack of proper authentication, because: (1) the exhibit is not self-authenticating; and (2) Ethicon has failed to produce legally sufficient evidence to support a finding that the exhibit is what Ethicon claims it is.</p> <p>FRE 105: To the extent Exhibit 2001 is admitted, its use should be restricted to the purpose for which it was originally submitted.</p>

No.	Objections
2002	<p>FRE 801/802: The statements made in Ex. 2002, as relied upon in Ethicon’s Patent Owner Response, Ex. 2008, Ex. 2009, and Ex. 2017, are inadmissible hearsay. Each relied upon statement is represented as being made outside of this proceeding and is offered “for its truth” as to the alleged activities. Because Ethicon has not identified any applicable hearsay exception for the relied upon statements, Ex. 2002 constitutes inadmissible hearsay.</p> <p>FRE 901: Exhibit 2002 is inadmissible for lack of proper authentication, because: (1) the exhibit is not self-authenticating; and (2) Ethicon has failed to produce legally sufficient evidence to support a finding that the exhibit is what Ethicon claims it is.</p> <p>FRE 105: To the extent Exhibit 2002 is admitted, its use should be restricted to the purpose for which it was originally submitted.</p>
2003	<p>FRE 801/802: The statements made in Ex. 2003, as relied upon in Ethicon’s Patent Owner Response, Ex. 2008, and Ex. 2009, are inadmissible hearsay. Each relied upon statement is represented as being made outside of this proceeding and is offered “for its truth” as to the alleged activities. Because Ethicon has not identified any applicable hearsay exception for the relied upon statements, Ex. 2003 constitutes inadmissible hearsay.</p> <p>FRE 901: Exhibit 2003 is inadmissible for lack of proper authentication, because: (1) the exhibit is not self-authenticating; and (2) Ethicon has failed to produce legally sufficient evidence to support a finding that the exhibit is what Ethicon claims it is.</p> <p>FRE 105: To the extent Exhibit 2003 is admitted, its use should be restricted to the purpose for which it was originally submitted.</p>

No.	Objections
2004	<p>FRE 401/402/403: Ex. 2004 is not cited in Ethicon’s Patent Owner Response and, therefore, lacks sufficient relevance to outweigh the confusion and prejudice it introduces.</p> <p>FRE 801/802: The statements made in Ex. 2004, as relied upon in Ex. 2008, are inadmissible hearsay. Each relied upon statement is represented as being made outside of this proceeding and is offered “for its truth” as to the alleged activities. Because Ethicon has not identified any applicable hearsay exception for the relied upon statements, Ex. 2004 constitutes inadmissible hearsay.</p> <p>FRE 901: Exhibit 2004 is inadmissible for lack of proper authentication, because: (1) the exhibit is not self-authenticating; and (2) Ethicon has failed to produce legally sufficient evidence to support a finding that the exhibit is what Ethicon claims it is.</p> <p>FRE 105: To the extent Exhibit 2004 is admitted, its use should be restricted to the purpose for which it was originally submitted.</p>
2005	<p>FRE 401/402/403: Ex. 2005 is not cited in Ethicon’s Patent Owner Response and, therefore, lacks sufficient relevance to outweigh the confusion and prejudice it introduces.</p> <p>FRE 801/802: The statements made in Ex. 2005, as relied upon in Ex. 2017, are inadmissible hearsay. Each relied upon statement is represented as being made outside of this proceeding and is offered “for its truth” as to the alleged activities. Because Ethicon has not identified any applicable hearsay exception for the relied upon statements, Ex. 2005 constitutes inadmissible hearsay.</p> <p>FRE 901: Exhibit 2005 is inadmissible for lack of proper authentication, because: (1) the exhibit is not self-authenticating; and (2) Ethicon has failed to produce legally sufficient evidence to support a finding that the exhibit is what Ethicon claims it is.</p> <p>FRE 105: To the extent Exhibit 2005 is admitted, its use should be restricted to the purpose for which it was originally submitted.</p>

No.	Objections
2006	<p>FRE 401/402/403: Ex. 2006 is not cited in Ethicon’s Patent Owner Response and, therefore, lacks sufficient relevance to outweigh the confusion and prejudice it introduces.</p> <p>FRE 801/802: The statements made in Ex. 2006, as relied upon in Ex. 2017, are inadmissible hearsay. Each relied upon statement is represented as being made outside of this proceeding and is offered “for its truth” as to the alleged activities. Because Ethicon has not identified any applicable hearsay exception for the relied upon statements, Ex. 2006 constitutes inadmissible hearsay.</p> <p>FRE 901: Exhibit 2006 is inadmissible for lack of proper authentication, because: (1) the exhibit is not self-authenticating; and (2) Ethicon has failed to produce legally sufficient evidence to support a finding that the exhibit is what Ethicon claims it is.</p> <p>FRE 105: To the extent Exhibit 2006 is admitted, its use should be restricted to the purpose for which it was originally submitted.</p>
2007	<p>FRE 801/802: The statements made in Ex. 2007, as relied upon in Ex. 2017, are inadmissible hearsay. Each relied upon statement is represented as being made outside of this proceeding and is offered “for its truth” as to the alleged activities. Because Ethicon has not identified any applicable hearsay exception for the relied upon statements, Ex. 2007 constitutes inadmissible hearsay.</p> <p>FRE 901: Exhibit 2007 is inadmissible for lack of proper authentication, because: (1) the exhibit is not self-authenticating; and (2) Ethicon has failed to produce legally sufficient evidence to support a finding that the exhibit is what Ethicon claims it is.</p> <p>FRE 105: To the extent Exhibit 2007 is admitted, its use should be restricted to the purpose for which it was originally submitted.</p>

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