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Paper 39
Date: May 4, 2026

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

STRYKER CORPORATION and
WRIGHT MEDICAL TECHNOLOGY, INC.,
Petitioner,

v.

OSTEOMED LLC,
Patent Owner.

IPR2022-00190
Patent 9,351,776 B2

Before SHERIDAN K. SNEDDEN, RICHARD H. MARSCHALL, and JAMIE T. WISZ, *Administrative Patent Judges.*

SNEDDEN, *Administrative Patent Judge*.

JUDGEMENT

Final Written Decision on Remand
Determining All Challenged Claims Unpatentable
35 U.S.C. §§ 144, 318

I. INTRODUCTION

This proceeding is on remand from the United States Court of Appeals for the Federal Circuit. The court issued its decision *in Stryker Corp. v. OsteoMed LLC*, No. 2023-1925, 2025 WL 2814019 (Fed. Cir. Oct. 3, 2025) ("*Stryker*") (Paper 36[1]), affirming-in-part, reversing-in-part, vacating and remanding-in-part our Final Written Decision (Paper 33) for further proceedings. In its opinion, the Federal Circuit reversed our finding of no anticipation as to independent claims 1 and 10 of U.S. Patent No. 9,351,776 B2 ("the '776 patent," Ex. 1001), and vacated and remanded for further proceedings to evaluate whether dependent claim 15 is unpatentable. *Stryker*, slip op. 17.

We have jurisdiction under 35 U.S.C. § 6. We issue this Final Written Decision on Remand pursuant to 35 U.S.C. §§ 144, 318 and 37 C.F.R. § 42.73 in an *inter partes* review involving Stryker Corporation and Wright Medical Technology, Inc. (collectively, "Petitioner") and OsteoMed LLC ("Patent Owner"). For the reasons discussed below, after considering the entirety of the record in light of the Federal Circuit's directives in *Stryker*, we find by a preponderance of the evidence that claim 15 is unpatentable.

A. Background and Summary

Petitioner filed a Petition requesting an *inter partes* review of claim 15 of the '776 patent. Paper 2 ("Pet."). Patent Owner filed a Preliminary Response to the Petition. Paper 5. Following institution, Patent Owner filed a Response to the Petition (Paper 16, "PO Resp."), Petitioner filed a Reply to Patent Owner's Response (Paper 19, "Reply"), and Patent Owner filed a Sur-reply (Paper 22, "Sur-reply"). On March 1, 2023, the

[1] This decision references the slip opinion at Paper 36.

parties presented arguments at an oral hearing. The transcript of the hearing has been entered into the record. Paper 32.

On May 30, 2023, we issued a Final Written Decision holding that Petitioner had not shown that claim 15 was unpatentable over the prior art. Paper 33. Patent Owner appealed the Final Written Decision to the Federal Circuit. Paper 34. On October 3, 2025, the Federal Circuit issued an opinion reversing our finding of anticipation as to independent claims 1 and 10 of the '776 patent, vacating and remanding "the Board's determinations regarding anticipation or obviousness of the dependent claims for reconsideration consistent with this opinion." *Stryker*, slip op. at 15.

With our authorization, the parties filed an authorized joint notice detailing the parties' positions as to whether the outcome of the dependent claims was effectively addressed by the Federal Circuit's decision or whether the Board's input is required to resolve the dispute between the parties and listing specific locations within the record that they believed identified evidence and arguments relevant to the current dispute. Paper 38.[2] The parties agree that claim 15 was not addressed by the Federal Circuit and requires the Board's input on remand. *Id.* at 2. Our analysis follows.

B. Related Matters

Petitioner filed another petition for *inter partes* review in IPR2021-01451 for the '776 patent challenging claims 1–6 and 8–13. Pet. 2; Paper 4, 2. Petitioner also filed petitions for *inter partes* review in IPR2021-01450 and IPR2022-00189 for related U.S. Patent No. 8,529,608; IPR2021-01452

[2] Our authorization to file the joint notice did not permit the submission of new arguments and evidence not already in the record, and to the extent that the parties submission includes any such material, we do not consider it in our analysis on remand.

and IPR2022-00191 for related U.S. Patent No. 9,763,716; IPR2021-01453 for related U.S. Patent No. 10,245,085. Pet. 1–3; Paper 4, 1–2. The parties indicate that the '776 patent is asserted against Petitioner in *OsteoMed LLC v. Stryker Corporation*, Case No. 1:20-cv-06821 (N.D. Ill.) and in *OsteoMed LLC v. Wright Medical Technology, Inc.,* Case No. 1:20-cv-1621 (D. Del.). *Id.*

C. The '776 patent (Ex. 1001)

The '776 patent discloses a "system for securing bones together across a joint." Ex. 1001, Abstract. The system may be used for reconstructing a joint that has been damaged due to bone or soft tissue trauma, in which a surgeon may need to fuse the bones of the joint together in a configuration that approximates the natural geometry of the joint. *Id*. at 1:21–25.

The '776 patent discloses that its system has "the ability to tightly couple the bones of a joint together" by including a transfixation screw that is inserted across the joint through a bone plate. *Id*. at 2:31–35. More specifically, the '776 patent discloses that the presence of the transfixation screw across the joint "may increase the contact pressure on the bony interface of the joint, increasing the probability of a positive fusion." *Id*. at 2:46–50. According to the '776 patent, by having the transfixation screw passing from the first bone to the second bone, a "tension band" construct is created "that enables the transfixation screw to absorb a portion of the mechanical stress that would otherwise be imposed upon the plate above the joint when a load is applied to the joint," thereby enhancing the integrity and reliability of the plate and increasing the load that the plate may support without increasing plate thickness. *Id*. at 2:54–61.

Figure 2, reproduced below, shows "a bone plate being used in conjunction with a transfixation screw to repair the failed metatarso-phalangeal joint" and immediately below it is Figure 3, which shows "a more detailed isometric view of the bone plate." *Id.* at 3:9–14.

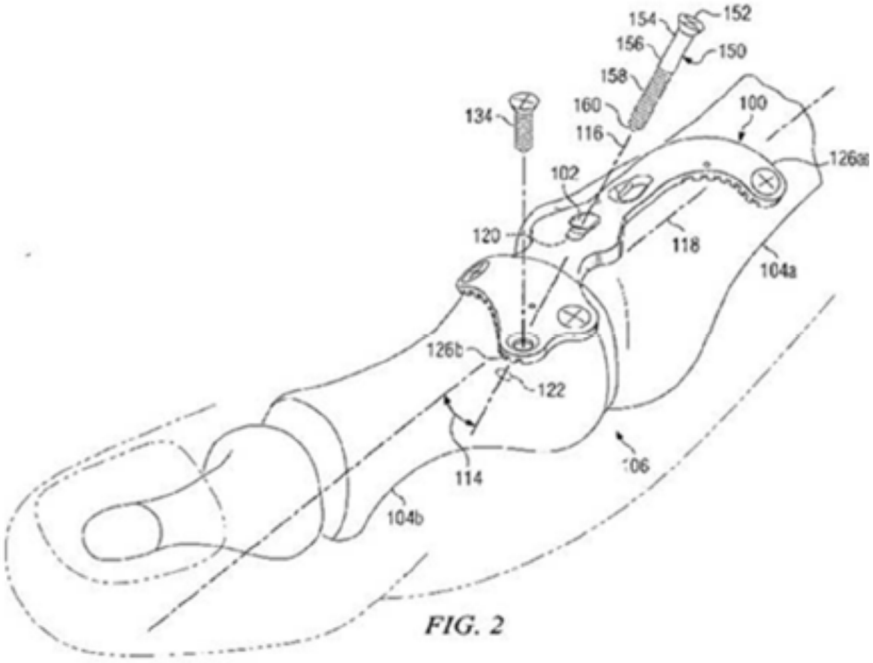

FIG. 2

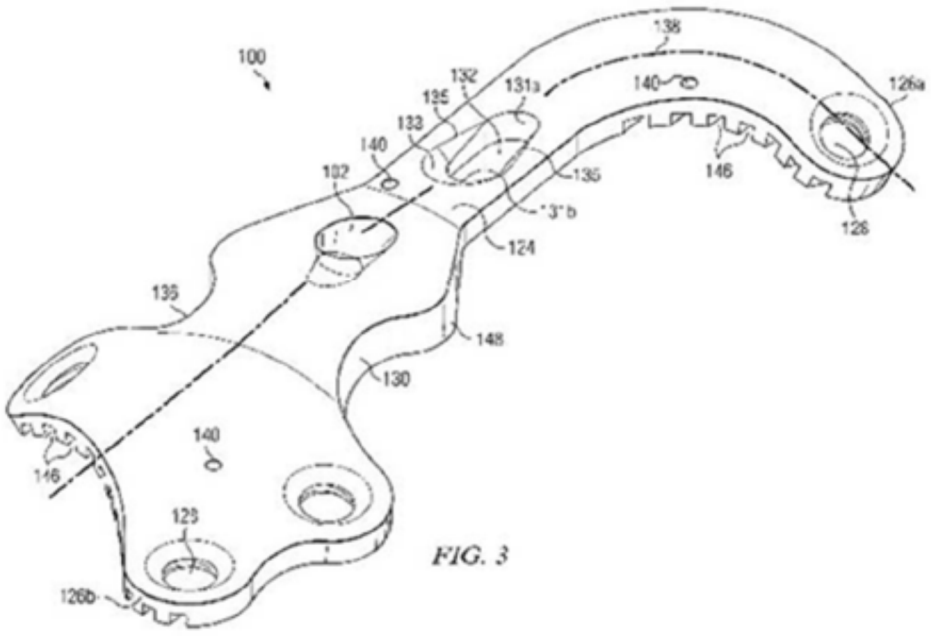

FIG. 3

Figure 2 shows bone plate 100 and transfixation screw 150 applied to a failed metatarso-phalangeal joint. *Id*. at 4:13–15. Transfixation screw 150 is inserted through transfixation screw hole 102 of bone plate 100 and into both first bone 104a and second bone 104b "in order to fuse joint 106." *Id*. at 4:26–30. Figure 3 shows bone plate 100 having elongated spine 124 and bridge portion 130 between first end 126a and second end 126b that can span across joint 106. *Id*. at 7:25–33. First end 126a includes attachment point 128 "for attaching first end 126a to bone 104a" and second end 126b includes another attachment point 128 "for attaching second end 126b to bone 104b." *Id*. The '776 patent discloses that bridge portion 130 "is free of voids such as positioning holes or screw holes that could potentially reduce the bending strength of bridge portion 130" and may include thickened section 136 of bone plate 100 "to increase the bending strength of bridge portion 130." *Id*. at 8:9–16.

D. The Sole Challenged Claim

Dependent claim 15, reproduced below, is the only challenged claim of the '776 patent in this proceeding. Claim 15 depends from independent claim 10, which is also reproduced below.

> 10. [10.P] A plate for securing two discrete bones together across an intermediate joint, comprising:
>
> [10.1] an elongate spine having:
>
> a first end comprising:
>
> at least one fixation point for attaching the first end to a first discrete bone on a first side of a joint; and
>
> a first inner surface configured to substantially conform with a geometry of the first bone;
>
> [10.2] a second end comprising:
>
> at least one fixation point for attaching the second end to a second discrete bone on a second side of the joint; and
>
> a second inner surface configured to substantially conform with a geometry of the second bone; and
>
> [10.3] a bridge portion disposed between the first end and the second end, the bridge portion configured to span across the joint; and
>
> [10.4] a transfixation screw hole disposed along the spine, the transfixation screw hole comprising an inner surface configured to direct a transfixation screw through the transfixation screw hole such that the transfixation screw extends alongside the bridge portion at a trajectory configured to pass through a first position on the first bone and a second position on the second bone once the plate is placed across the joint, enabling said screw to absorb tensile load when the second bone is loaded permitting transfer of the tensile load through said screw into said bridge,

> [10.5] wherein at least a portion of said bridge portion and said transfixation screw hole has a depth greater than at least a portion of said first and second ends.
>
> 15. The plate of claim 10, [15.1] further comprising a first flared hip on a first side of the plate and a second flared hip on a second side of the plate, [15.2] the flared hips comprising two generally parabolic wings extending laterally from the spine and being symmetrically opposed to one another about the transfixation screw hole.

Ex. 1001, 13:3–14:4, 14:22–27 with Petitioner's numbering added (*see* Pet. 12–13).

E. Remanded Grounds of Unpatentability

We reconsider the following challenge set forth in the Petition in view of the Federal Circuit's directives in *Stryker*.

Remanded Ground	Remanded Claim	35 U.S.C. §	Reference(s)/Basis
1	15	102	Slater[3]

Petitioner relies upon the Declarations of Dr. Kenneth A. Gall (Ex. 1002; Ex. 1028) to support its contentions.

Patent Owner relies upon the Declaration of Mr. Mark B. Sommers (Ex. 2002).

F. Summary of Slater (Ex. 1005)

Slater is an international patent application published on November 22, 2007. Ex. 1005, code (43). Slater relates to an ankle fusion plate for fusion of the anterior ankle. *Id.* at 1:6–7. Slater discloses that orthopedic devices can repair diseased bones and bone fractures. *Id*. at 1:21–22. Slater

[3] Ex. 1005, Slater, WO 2007/131287 A1, published Nov. 22, 2007 ("Slater").

explains that bones that have been fractured must be kept together for lengthy periods of time to permit recalcification and bonding. *Id*. at 3:1–3. According to Slater, internal fixation techniques require "the fracture be stable axially, torsionally and rotationally." *Id*. at 3:19–25; 7:1–2. To achieve such objectives, Slater discloses a fixation screw and plate design in which "the plate depth changes at different locations" so that "the depth at the beginning a[n]d end points of the L shaped contour [of the plate] over the ankle joint in the second region will be at it[s] maximum thickness." *Id*. at 8:27–34. Slater further discloses that "[t]he plate will taper at least one but preferably two different points of the plate" and that "[t]hese points will preferably resemble and conform to the typical geometry of the anatomical region." *Id*. at 9:3–4, 9:11–12.

Figure 1, reproduced below, shows a side elevation view of a plate attached via fixation screws "to an abbreviated ankle joint (dotted lines)." *Id*. at 9:28–30.

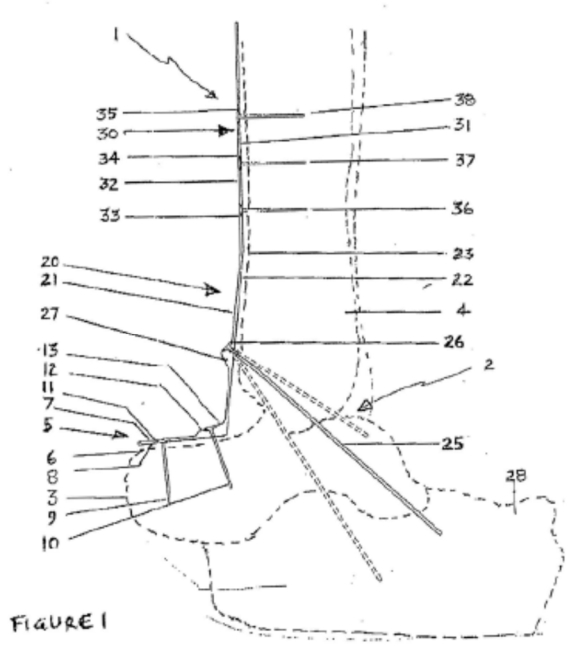

Figure 1 shows plate (1) attached to an ankle joint (2) opposing the talus bone (3) and the tibial bone (4). *Id.* at 12:2–4. Figure 1 depicts plate (1) having inner (22) and outer (21) surfaces, with inner surface (22) opposing the anterior surface (23) of the tibia (4). *Id.* at 12:18–19. Portion (30) of the plate includes openings (33, 34, 35) for receiving fastening screws (36, 37, 38), which engage tibia (4). *Id.* at 12:28–31. Portion (5) of the plate has inner (8) and outer (7) surfaces that oppose surface (6) of the talus bone (3) for fixation thereto by screws (9, 10), which pass through openings (11, 12) and into the talus. *Id.* at 12:5–10.

In addition, portion (20) of Figure 1's plate resides between portions (5) and (30), and includes opening (26) in formation (27), for receiving fixation screw (25). *Id.* at 12:18–22. According to Slater, "[f]ormation 27 is configured so that screw 25 is implanted at an angle within a predetermined allowable angular range . . . preferably be within a 40 degree arc." *Id.* at 11:21–23; *see also id.* at Fig. 2 (front elevation view of plate 1, showing another view of plate portions (20, 30), openings (33, 34, 35) and formation (27) relative to the underlying anterior tibia (4) and talus (3) to which the plate is attached).

Slater discloses that "[s]crew 25 engages tibia 4, talus 3, and calcaneus 28 [(i.e., heal bone)] effectively providing three points of fixation according to this embodiment." *Id.* at 11:23–25. Continuing, Slater teaches that, "[a]s may be seen in figure 1 the screws are placed in a particular orientation and required angle to the joint/s required for arthrodesis," and "[t]his is also necessary to achieve maximal compression of the fusion site/s." *Id.* at 12:3–5.

In summarizing features of its invention, Slater discloses that the plate's depth may change at different locations and "[p]referably, the depth at the beginning arid [sic, and] end points of the L shaped contour over the ankle joint . . . will be at it's [sic] maximum thickness." *Id.* at 8:31–34; *see also id.* at 9:3–6 ("The plate will taper at at [sic] least one but preferably two different points of the plate . . . [and] [t]he desired effect is for the plate to taper in and decrease in thickness proximally."). Slater further teaches that the plate "will preferably resemble and conform to the typical geometry of the anatomical region. . . . Preferably, the plates are configured to generally conform to the anatomic contours of the ankle joint." *Id.* at 9:11–15.

II. ANALYSIS

A. Ground 1: Anticipation of Claim 15 by Slater

In its Petition, Petitioner contends that Slater anticipates dependent claim 15. Pet. 30–32. Petitioner addresses each limitation of claim 15, and cites to declarant testimony for support. *See id*. (citing Ex. 1002 ¶¶ 115–119). According to Petitioner, Slater also describes a bone plate with flared hips comprising two generally parabolic wings as claimed (labeled limitations 15.1 and 15.2 by Petitioner). *Id.* Petitioner provides an annotated version of Slater's Figure 2, reproduced below.

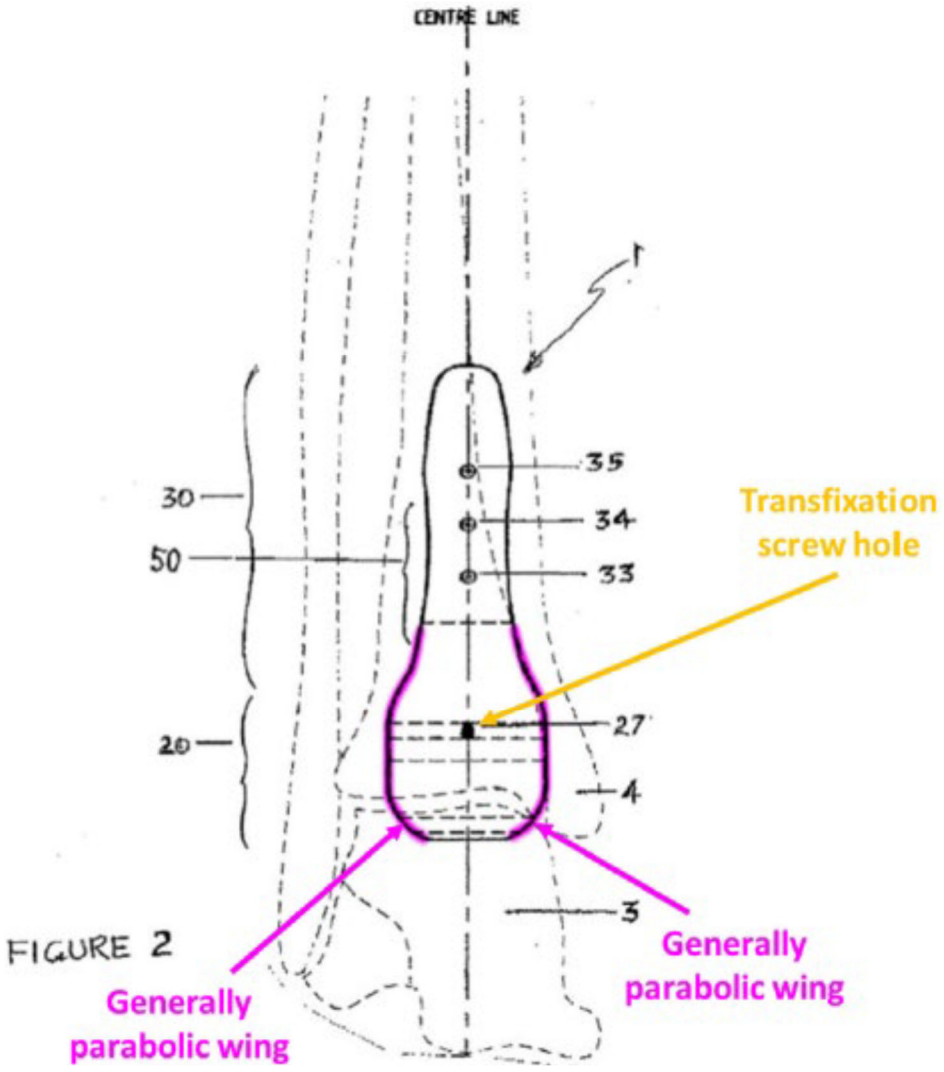

FIGURE 2

Pet 32. Figure 2, above, is a front elevation view of Slater's plate (the plate as otherwise depicted in a side elevation in Figure 1) and shows the plate oriented for placement on the underlying tibia (4) and talus (3); Petitioner's annotation shows "Generally parabolic wing[s]" (labeled with purple arrows and highlighting) on the lower left and right sides of the plate, extending laterally on opposite sides of the transfixation screw hole.

With the exception of its arguments as to independent claim 10 (held unpatentable in *Stryker*), Patent Owner does not address Petitioner's arguments and evidence as to claim 15 in the Patent Owner Response. PO Resp. 39.

We have reviewed Petitioner's arguments and evidence as to the undisputed limitations of claim 15 and find that Petitioner establishes that Slater discloses each limitation of claim 15 for the reasons provided by Petitioner. Specifically, Petitioner shows, and Patent Owner does not dispute, that Slater describes a plate with "flared hips" comprising opposing "generally parabolic wings" as recited in dependent claim 15. Pet. 30–32; Ex. 1005, Fig. 2; Ex. 1002 ¶ 119. We adopt Petitioner's arguments and evidence as to these limitations as our own. *See* Pet. 28–30.

Based on the foregoing, Petitioner proves by a preponderance of the evidence that Slater anticipates claim 15.

III. CONCLUSION

In summary:

Remanded Claims	35 U.S.C. §	Reference(s)/ Basis	Remanded Claims Shown Unpatentable	Remanded Claims Not Shown Unpatentable
15	102	Slater	15	
Overall Outcome			15	

VI. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that claim 15 of the '776 patent is determined to be unpatentable; and

FURTHER ORDERED that this is a final written decision of the Board under 35 U.S.C. § 318(a). Parties to the proceeding seeking judicial review of the decision must comply with the notice and service requirements of 37 C.F.R. § 90.22.

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