

From: [Andriy Lytvyn](#)
To: [Director_PTABDecision_Review](#)
Cc: [William Nelson](#); [Mark Miller](#); [Stephen E. Kelly](#); [Thomas Banks](#)
Subject: IPR2023-00625 - Rehearing Request by the Director [IWOV-FirmLive.FID1886307]
Date: Wednesday, October 4, 2023 5:11:56 PM
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[Request for Director Review.pdf](#)

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Dear Director,

Patent Owner in the above-captioned IPR respectfully requests Director Review of the Board's decision to institute trial.

Patent Owner hereby provides the following priority-ranked list of the issues for which Patent Owner seeks Director Review:

1. The Board abused its discretion by *sua sponte* imposing a contrived construction of the term "base" that contravenes the Federal Circuit case law analyzed at length in the Preliminary Response and is clearly unreasonable, arbitrary, or fanciful. But for the Board's improper construction of this term, all grounds set forth in the Petition indisputably fail.
2. The Board's finding that "[u]nder each ground for unpatentability, Petitioner has included a designated section addressing ... combining multiple tools and steps into a single tool" is false and has no evidentiary support. The Board's decision to institute trial on the legally deficient grounds that attempt to establish obviousness of the claimed "abrading device" by merely mapping its various elements to a disjointed assortment of structural features of multiple surgical tools, without setting forth a cohesive combination thereof, contravenes the governing principle the Supreme Court set forth in *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 401 (2007) ("[a] patent composed of several elements is not proved obvious merely by demonstrating that each element was, independently, known in the prior art"). Thus, the Board's Institution Decision constitutes abuse of discretion and warrants Director Review.

Very respectfully,

Andriy Lytvyn

IPR2023-00625
Ex. 3100

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