

From: [Ferraro, Vincent M.](#)
To: [Trials](#)
Cc: [Zinna, Michael](#); [Bapna, Abhi](#); [Scott E. Kamholz](#); ["Jennifer Brinkerhoff"](#); corby@vowelllawfirm.com; ["Ross Culpepper"](#); ["Sam Rocereta"](#)
Subject: RE: IPR2023-00894 / Petitioner's Request for Motion to Strike or Order to Show Cause
Date: Tuesday, June 25, 2024 4:42:00 PM

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Dear Honorable Board,

To clarify Mr. Kamholz's below email, Patent Owner is available Thursday or Friday *afternoon* for a call.

Respectfully submitted,

/Vincent M. Ferraro/

Vincent M. Ferraro, Reg. No. 79,197
Lead Counsel for Patent Owner

VINCENT FERRARO

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From: Scott E. Kamholz <sek@toolpat.com>
Sent: Tuesday, June 25, 2024 3:57 PM
To: Trials@uspto.gov
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Subject: IPR2023-00894 / Petitioner's Request for Motion to Strike or Order to Show Cause

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To the Board:

Petitioner Fusion Orthopedics, LLC in IPR2023-00894 requests authorization to file a Motion to Strike:

- a. the Revised Motion to Amend, for abandoning the original proposed amendment in favor

of an entirely unrelated new amendment, thereby violating the terms of the motion to amend pilot program in that "A revised MTA must provide amendments, arguments, and/or evidence in a manner that is responsive to issues raised in the preliminary guidance and/or petitioner's opposition. A revised MTA may not include amendments, arguments, and/or evidence that are unrelated to issues raised in the preliminary guidance and/or petitioner's opposition to the MTA." 84 FR 9497, 9500;

- b. the portion of Mr. Dominguez's second deposition relied upon in the Revised Motion to Amend and surrounding related testimony (Ex. 2022, 110:3–114:24), as violating Patent Owner's express agreement in Paper 40 that the deposition would be limited to Reply issues;
- c. the first full paragraph on page 8 of the Sur-Reply and new Exhibits 2024–2027 cited there as new argument and evidence violating 37 CFR 42.23(b); and
- d. footnote 3 on page 6 of the Sur-Reply and new exhibits 2032–20[3]6 cited there as new argument and evidence violating 37 CFR 42.23(b) and also violating the Board's courtesy and decorum standards of 37 CFR 42.1(c) by engaging in name-calling Petitioner.

Alternatively, Petitioner asks the Board to issue an Order to Patent Owner to Show Cause as to why the above-listed items should not be stricken.

The parties have conferred, and Patent Owner is unwilling to withdraw any of the above-listed items. Petitioner is available any time this week for a conference call. Patent Owner's counsel indicates that it is available Thursday or Friday for a call.

Respectfully submitted,

/Scott E. Kamholz/

Scott E. Kamholz, Reg. No. 48,543
Backup Counsel for Petitioner

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Scott E. Kamholz, M.D., Ph.D.

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