

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FUSION ORTHOPEDICS, LLC,
Petitioner,

v.

EXTREMITY MEDICAL, LLC,
Patent Owner.

Case IPR2023-00894
U.S. Patent No. 11,298,166

THIRD DECLARATION OF DR. ERIC H. LEDET

Extremity Medical, LLC EXHIBIT 2037 <i>Fusion Orthopedics v. Extremity Medical</i> Case IPR2023-00894
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I, Eric H. Ledet, declare as follows:

I. INTRODUCTION

1. I have been asked to submit this third declaration on behalf of Extremity Medical, LLC (“Extremity Medical” or “Patent Owner”) in connection with Case IPR2023-00894 before the United States Patent and Trademark Office. Specifically, for this third declaration, I have been asked to provide my opinions regarding statements in Petitioner’s Opposition to Patent Owner’s Revised Contingent Motion to Amend (Paper 49) and opinions expressed in the Third Declaration of Leonel Dominguez (Exhibit 1054).

2. This declaration sets forth the opinions that I have formed based on the information available to me as of the date of this declaration. The opinions and facts set forth in this declaration are based upon my analysis of U.S. Patent No. 11,298,166 (“the ’166 Patent”), the application that led to the ’166 Patent and related application, the provisional application to which that application claims priority, the prior art, the state of the art at the time of the invention, as well as my knowledge and extensive experience in this field.

3. My analysis of the materials submitted in this proceeding is ongoing and I will continue to review any new material that is provided. This declaration is indicative of only those opinions that I have formed to date. I reserve the right to amend, revise, and/or supplement my opinions stated herein based on any new

information that may become available to me or my continuing analysis of the materials already provided.

4. I am not currently and have not at any time in the past been an employee of Extremity Medical or of Petitioner Fusion Orthopedics, LLC (“Petitioner”). I have no financial interest in Extremity Medical outside of assisting Extremity Medical as an expert in this and any related matters.

5. I am being compensated for my time in connection with this *Inter Partes* Review at my standard consulting rate, but no part of my compensation depends on the nature of my findings or the outcome of this proceeding, and I have no other interest in this proceeding.

II. QUALIFICATIONS

6. All of my opinions stated in this declaration are based on my own personal knowledge and professional judgment. In forming my opinions, I have relied on my knowledge and experience in designing, developing, researching, and teaching the technology referenced in this declaration.

7. My qualifications for forming the opinions in this declaration are set forth in my original declaration (see Ex. 2012, ¶¶ 6-19) as well as my curriculum vitae (“CV”), attached hereto as Exhibit A.

III. MATERIALS AND OTHER INFORMATION CONSIDERED

8. In preparation for this declaration, I have considered the materials

discussed in this declaration, including, for example, the '166 Patent, the prior art references analyzed in this declaration, Petitioner's Opp. ("Opp."), and Dominguez's Third Decl. (Ex. 1054). In addition, my opinions are also based on my education, training, experience, and knowledge in the relevant fields.

IV. SUMMARY OF OPINIONS

9. Based on my experience and expertise, it is my opinion that substitute claims 16-30 of the '166 Patent are not unpatentable as anticipated or obvious over the prior art I have reviewed.

V. UNDERSTANDING OF PATENT LAW

10. I am not an attorney. For purposes of this declaration, I have an understanding about certain aspects of the law that are relevant to my opinions, as described in my original declaration (*see* Ex. 2012, ¶¶ 22-29).

VI. PERSON OF ORDINARY SKILL IN THE ART

11. My opinion regarding the person of ordinary skill in the relevant art ("POSITA") regarding the '166 Patent is set forth in my original declaration (*see* Ex. 2012, ¶¶ 30-34).

VII. PETITIONER'S UNPATENTABILITY GROUNDS BASED ON MAZUR (EXHIBITS 1056 AND 1057)

A. Mazur Does Not Anticipate Claims 16-30

12. Independent Claims 16 and 27 of the '166 Patent recite the following limitations: (1) "a third member comprising a third elongated body extending along

a straight line from a first end to a second end along a third longitudinal axis” and (2) “the second bore axis is substantially perpendicular to the third longitudinal axis.” It is my understanding that these claim limitations require the third member to be straight.

13. I understand that for his opinion that Mazur anticipates claims 16-30 of the '166 Patent, Mr. Dominguez relies primarily on the embodiment in Mazur's Figures 16A-16E, and secondarily on the embodiment in Mazur's Figure 7. *See* Ex. 1054, ¶ 12.

14. As is clear from the figures, the embodiment in Mazur's Figures 16A-16E has a curved body, and therefore, this embodiment, by itself, does not meet the above limitations.

15. I understand that, despite the lack of disclosure of these limitations in Figures 16A-16E, Mr. Dominguez believes that the statement in Mazur's paragraph [0094] that “a straight, curved, flexible, rigid, or no hub at all may be used with the above combinations” indicates that “Mazur expressly discloses a device in which a screw pass [sic] through the notched open end of a hub (as shown in Figures 12G, H, I, and 16A, B, and C) that is straight (as shown in, for example, Figure 7).” Ex. 1054, ¶ 10. I disagree that Mazur expressly discloses that the embodiment in Figures 16A-16E can be straight rather than curved.

16. It is my understanding that in Mazur's paragraph [0094], the

referenced “above combinations” refers to combinations of components discussed earlier in that paragraph specifically with respect to “[d]evice 300,” which is shown in Figures 11A-11D. And, the embodiment in Figures 16A-16E is not introduced until much later in the specification. See Ex. 1056, ¶ [0110]. Further, Mazur’s specification makes clear that the embodiment in Figures 11A-11D is a separate and distinct embodiment than the embodiment in Figures 16A-16E. For example, Mazur states that “FIG. 11A is a perspective view of another embodiment,” and that “FIGS. 16A-16E show various views of *another exemplary embodiment* of a bone fixation device hub.” *Id.* at ¶ [0046], [0055] (emphasis added). Therefore, I disagree that the statement in paragraph [0094] expressly discloses that the curved embodiment in Figures 16A-16E is, or can be, straight.

17. I understand that Mr. Dominguez also relies on certain other statements in Mazur that he believes “emphasize[] the interchangeability of parts.” Ex. 1054, ¶ 10. Such statements include:

- a. “Various hub designs are disclosed that may be used in combination with other fixation device components.”
- b. “The devices of this invention can be adapted for use in any of the bones of the body as will be appreciated by those skilled in the art.”
- c. “[T]he device may be adapted and configured with adequate

internal dimension to accommodate mechanical fixation of the target bone and to fit within the anatomical constraints.”

Id. (citing Ex. 1056, Abstract, ¶ [0060], ¶ [0088]). These are general statements that, in my opinion, do not indicate that all components of Mazur’s embodiments are interchangeable, or specifically that the curved embodiment in Figures 16A-16E can be modified to be straight.

18. For these reasons, it is my opinion that Mazur does not anticipate claims 16-30 of the ’166 Patent. To be clear, and as discussed below, it is also my opinion that Mazur’s embodiment in Figures 16A-16E could not be readily modified to be straight. *See infra* ¶¶ 29-37.

19. Independent claims 16 and 27 of the ’166 Patent also recite: “the first aperture is on a portion of a first exterior surface of the third member and on a portion of a second exterior surface of the third member.” Dependent claims 20 and 28 of the ’166 Patent further limit claims 16 and 27, respectively, by reciting: “the first exterior surface of the third member is a top exterior surface of the terminal end, and further wherein the second exterior surface of the third member is the side exterior surface of the third member.”

20. In my opinion, the embodiment in Mazur’s Figures 16A-16E also does not meet these limitations. Mazur, in this embodiment, at best discloses an aperture that is on a first exterior surface (*e.g.*, top) of its hub. It does not disclose

an aperture on both a first exterior surface and a second exterior surface (*e.g.*, side) of its hub. I have annotated Mazur's Figure 16A below in red to indicate where, in my opinion, the aperture lies.

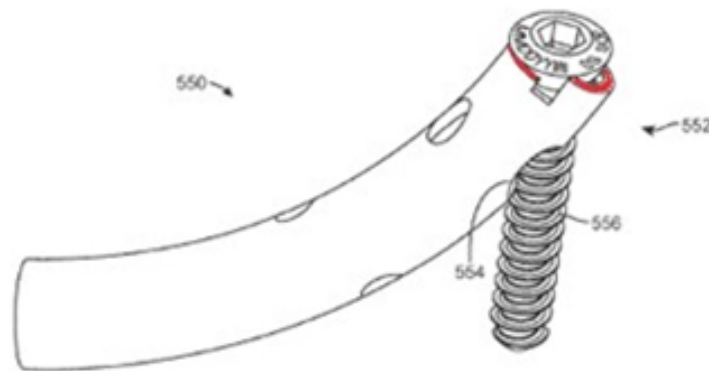
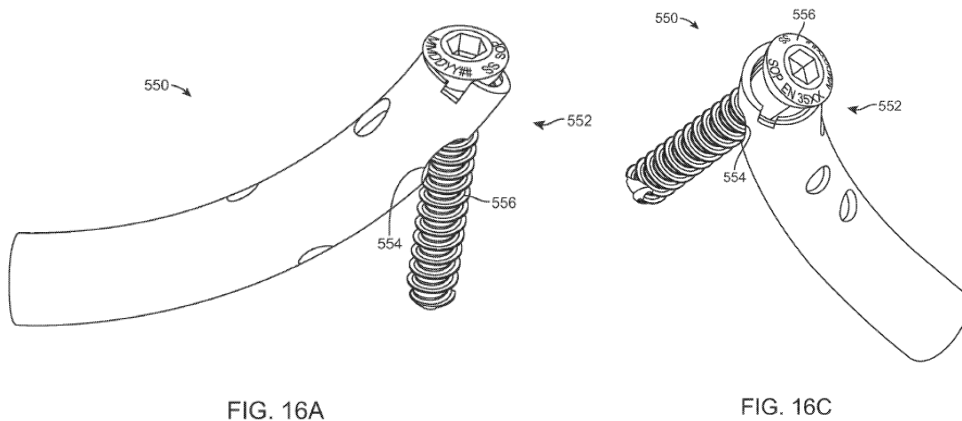


FIG. 16A

21. It is my opinion that the purpose and geometry of the “aperture” claimed in the ’166 Patent is tied to the claimed “bore.” The purpose of the claimed aperture is to provide an opening for a first member (*e.g.*, a screw) to enter the third member (*e.g.*, a nail), and a surface of the bore for the first member to abut and rest on. *See, e.g.*, Ex. 1001, Figs. 9, 11, 17, 18; *id.* at claim 3. Mr. Dominguez agrees on this point. Ex. 1054, ¶ 38 (“[T]he intended purpose [of the aperture is] to provide abutment for the screw head and a recess in which to hide all or part of the screw head. The importance of the aperture’s function to enable abutment is common practice when seating the bone screws head into the nail implant.”). Further, because the first member must fit through the aperture if it is

to fit through the bore, the geometry of the aperture is dependent on that of the bore. For example, the aperture must be at least as wide as the widest part of the bore.

22. Mazur's Figures 16A and 16C show that it is the open end on the top surface of Mazur's hub, not the notch on the side surface, that serves this purpose.



See Ex. 1056, Figs. 16A, 16C. Indeed, the screw abuts and rests on the top surface of the hub, and does not engage with (*e.g.*, become wedge or lodged in) the notch.

Id. Contrarily, the notch serves a very different purpose: to allow the hub to engage with an insertion tool. See Ex. 1056, ¶¶ [0072]-[0073]; Figs. 4, 6; see also Ex. 1054, ¶¶ 16-18 (describing “slots” designed to receive “ancillary” tools as commonplace in prior art directed to intramedullary nails); Ex. 2038, 34:23-35:16.

23. As to the geometry of Mazur's notch, it is completely unrelated to the bore in Mazur's hub. The notch can be sized independently of the hub because the notch is designed to engage with an insertion tool, not to receive a screw through it. Therefore, in my opinion, a POSITA would not consider the notch in Mazur's

hub to be part of the “aperture.”

24. For these additional reasons, it is my opinion that Mazur does not anticipate substitute claims 16-30 of the '166 Patent.

B. Mazur Does Not Anticipate Claim 24

25. Claim 24 of the '166 Patent recites the limitation “the first bore axis and the second bore axis intersect outside the third member.” Mazur does not disclose this limitation.

26. Mr. Dominguez annotated Figure 16A to show a *possible* instance in which the two claimed axes intersect. See Ex. 1054, p. 12. But he did not opine that the two axes *necessarily* intersect. His opinion mistakenly *assumes* that the first and second bore axes both lie on the same plane—the plane formed by the sheet of paper on which Mr. Dominguez made his annotation to Figure 16A. In reality, the axes may lie on any of an infinite number of planes and, indeed, may never intersect.

27. Because the claimed axes are formed through the claimed pairs of apertures, the plane on which any of the claimed axes lies depends on the exact orientation of its respective pair of apertures. It is impossible to ascertain, by simply viewing Figure 16A (which is merely a two dimensional figure), the exact orientation of the apertures shown, and whether the apertures are oriented such that the two axes in question actually lie on the same plane and intersect with one

another. Therefore, it is my opinion that a POSITA would not understand Mazur's Figure 16 (or any other figure in Mazur) to disclose this limitation of claim 24.

28. For these reasons, it is my opinion that Mazur does not anticipate substitute claim 24 of the '166 Patent.

C. Mazur Does Not Render Claims 16-30 Obvious

29. It is my understanding that Mr. Dominguez also relies on Mazur's paragraph [0094] for his opinion that Mazur renders substitute claims 16-30 obvious. Ex. 1054, ¶ 14. As I discussed above, *see supra* ¶¶ 15-16, such paragraph is directed to the embodiment in Figures 11A-11D, not the embodiment in Figures 16A-16E.

30. Mr. Dominguez also opines that Mazur's statements supposedly regarding "interchangeability" suggest to a POSITA to modify the embodiment in Figures 16A-16E to have a straight hub. I disagree for at least the reasons I discussed above, *see supra* ¶¶ 17, and further for the reasons set forth below.

31. Mr. Dominguez does not provide any opinion on whether or why a POSITA would be motivated to modify the embodiment in Figures 16A-16E to have a straight hub rather than a curved one. Based on my reading of Mazur, the reference suggests a straight hub "may be used" for the embodiment in Figures 11A-11D, Ex. 1056, ¶ [0094], but nowhere suggests the same for the separate and distinct embodiment in Figures 16A-16E. In addition, Mazur's paragraph [0094]

suggests a mere possibility of a modification (to the embodiment in Figures 11A-11D) without providing any reason for a POSITA to make it. Therefore, it is my opinion that Mr. Dominguez has not provided a source of any motivation for a POSITA to modify the embodiment in Figures 16A-16E to have a straight hub.

32. As to a reasonable expectation of success, Mr. Dominguez opines that such an expectation exists merely because Mazur extensively describes straight hub embodiments. *See* Ex. 1054, ¶ 14. I disagree. As an initial matter, the straight hub embodiment (shown in Mazur's Figures 1-9) has a very different design than that of the embodiment in Figures 16A-16E. Aside from the difference between a curved hub and straight hub, the embodiment in Figures 1-9 has grippers, *see, e.g.*, Ex. 1056, ¶¶ [0064]-[0066], [0072], [0074-0076], but the embodiment in Figures 16A-16E does not.

33. The embodiment in Figures 1-9 also has a different application than the embodiment in Figures 16A-16E. The embodiment in Mazur's Figures 1-9 is specifically dimensioned and configured for fractures of the proximal ulna. *See, e.g.*, Ex. 1056, ¶ [0062] (referring to the embodiment in Figures 1 and 2, "[i]n this example, device 100 is shown implanted in the upper (or proximal) end of an ulna 106"). A POSITA would understand that the embodiment in Figures 1-9 is designed to be inserted into the intramedullary space of the bone without compromising the articular surface (*i.e.*, without going through the joint). A

straight hub can achieve this in the proximal ulna, as shown in Figures 1-2 and 4-9, because of the orientation and location of the articular surface relative to the intramedullary space.

34. On the other hand, it is my opinion, based on my experience and Mazur's disclosures, that the curved hub in Figures 16A-16E, and *in situ* Figures 12G-12I, is specifically dimensioned and configured for the anatomy of the distal radius. See *e.g.*, *id.* at ¶¶ [0021], [0060], [0088], [0099]. A POSITA would know that a straight hub could not be used in the distal radius because it would have to be inserted through the articular surface of the distal radius, thereby completely disrupting the wrist. In sum, a POSITA would know that a straight hub would not be an appropriate substitution for the curved hub in Figures 16A-16E and *in situ* Figures 12G-12I.

35. Even if a straight hub could somehow be used in the distal radius, the hub would require additional modifications to remain suitable for this intended use – modifications not explained or discussed Mr. Dominguez. For example, the screw that goes through the hub could no longer be oriented obliquely as shown in Figures 16A-16E, and would instead have to be oriented orthogonally (or substantially orthogonally) through the side of the hub. In this situation, the modified embodiment could not possibly meet the new limitations of claims 16-30 of the '166 Patent that require the aperture to be both on a first (*e.g.*, top) exterior

surface and a second (*e.g.*, side) exterior surface, of the third member.

36. Likewise, the dimensions and configuration of the curved hub in Figures 16A-16E would not necessarily be appropriate for a proximal ulna and significant experimentation would be necessary to adapt the curved hub to the proximal ulna if a curved hub could be used at all.

37. For these reasons, it is my opinion that Mazur does not render substitute claims 16-30 of the '166 Patent obvious.

VIII. PETITIONER'S UNPATENTABILITY GROUNDS BASED ON THE COMBINATION OF COGNET AND ZHANG (EXHIBITS 1058 AND 1059)

38. Independent claims 16 and 27 recite the following new limitation: “the first aperture is on a portion of a first exterior surface of the third member and on a portion of a second exterior surface of the third member.” Dependent claims 20 and 28 further limit claims 16 and 27, respectively, by reciting: “the first exterior surface of the third member is a top exterior surface of the terminal end, and further wherein the second exterior surface of the third member is the side exterior surface of the third member.”

39. I understand that for his opinion that the combination of Cognet and Zhang renders claims 16-30 obvious, Mr. Dominguez relies primarily on Zhang's singular figure. *See* Ex. 1054, ¶ 21.

40. It is my opinion that Zhang does not disclose the new limitations of

claims 16, 20, 27, and 28 of the '166 Patent that require an aperture to be on a first (*e.g.*, top) exterior surface and a second (*e.g.*, side) exterior surface of the third member.

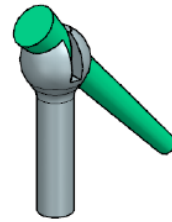
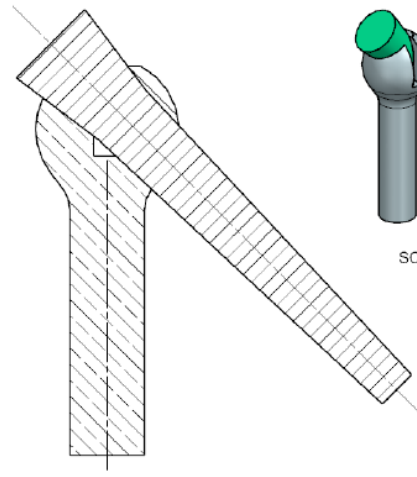
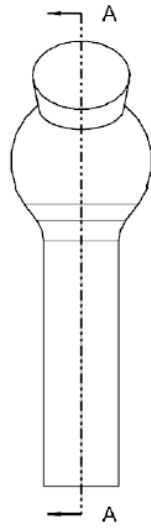
41. As an initial matter, Zhang's figure is a two-dimensional cross section view of a nail that has very limited detail and shows a screw where an aperture *might lie*, and therefore, does not clearly show whether and where on an exterior surface of the intramedullary nail 1 an aperture *actually is formed*.

42. To the extent that Zhang's figure is considered to disclose an aperture, in my opinion, Zhang's assembly would still not meet the new limitations of claims 16-30 of the '166 Patent because such an aperture would necessarily be formed entirely on the singular surface of the "nail tail region." Ex. 1058, 4:6; *see also id.* at figure; Ex. 2038, 81:7-12. This region is bulbous (*e.g.*, spherical), and therefore, has only a single surface, not two surfaces as required by claims 16-30 of the '166 Patent.

43. Even if Zhang's "nail tail region" is considered to have multiple surfaces, in my opinion, a POSITA would not consider Zhang's "groove 4" to be a part of the aperture for the same reasons as discussed above with respect to Mazur's notch. *See supra* ¶¶ 20-23. Like Mazur, Zhang discloses that its "groove" is designed to allow engagement with an insertion tool (*i.e.*, "a screwdriver"). Ex. 1058, 4:32-36. Mr. Dominguez agrees on this point. *See, e.g.*, Ex. 1054, ¶¶ 16-18

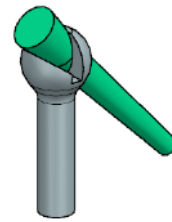
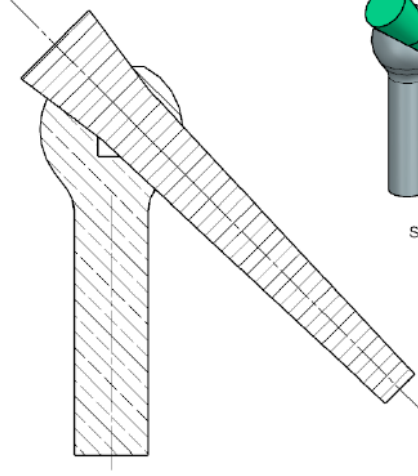
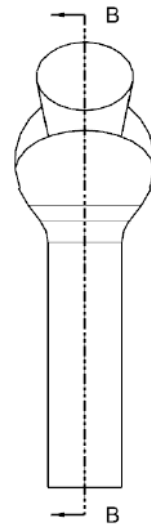
(describing “slots” designed to receive “ancillary” tools as commonplace in prior art directed to intramedullary nails).

44. I understand that Mr. Dominguez also created what he describes as a “3D model of Zhang’s assembly.” Ex. 1054, ¶ 22. My understanding is that Mr. Dominguez’s model represents his own interpretation of Zhang’s figure. See Ex. 2038, 73:23-80:21 (Mr. Dominguez describing his process for creating the 3D model). It is my opinion that such model represents just one of many potential interpretations of Zhang’s figure, and no one model will necessarily be correct. See *id.* To illustrate this point, three-dimensional models of Zhang’s assembly according to three different potential interpretations of Zhang’s figure were prepared under my direction using SolidWorks. As seen in the screenshots below (Ex. 2039), the cross-sectional view for each of the three models (*i.e.*, “Section A-A,” “Section B-B,” and “Section C-C”) looks exactly the same as that for the other two respective models.



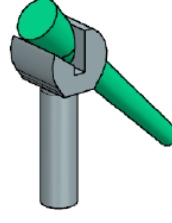
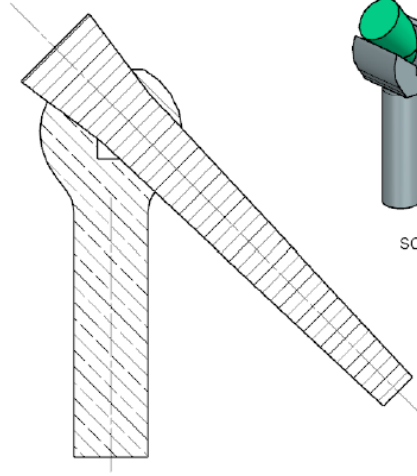
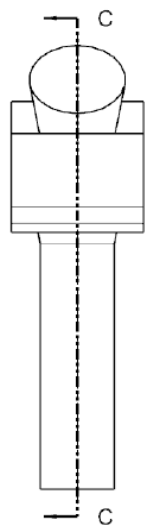
SCALE 1:2

SECTION A-A



SCALE 1:2

SECTION B-B



SCALE 1:2

SECTION C-C

But in reality, and as seen in the above screenshots, the models comparatively have very different geometries in the “nail tail region.” To be clear, these models were created merely to illustrate my opinion that Zhang’s figure, which provides a two-dimensional cross section view of a nail with very limited detail, lacks sufficient information for a POSITA to generate a relevant 3D model. Nothing in my opinions should be taken as an admission that any of the 3D models discussed here accurately represents the assembly in Zhang’s figure or that it shows an assembly that would meet the limitations of claims 16-30.

45. For these reasons, it is my opinion that the combination of Cognet and Zhang does not render substitute claims 16-30 obvious.

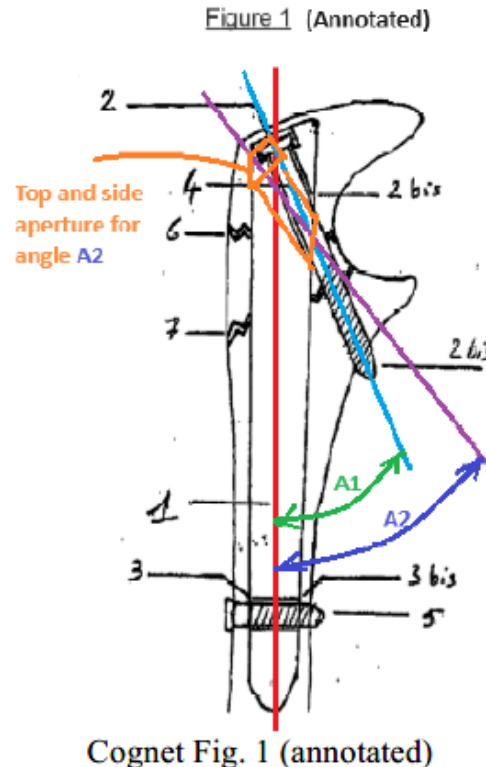
IX. THE MODIFICATION OF COGNET BASED ON EITHER MELKENT (EXHIBIT 1060) OR GOOCH’S (EXHIBIT 1063) DISCLOSURES

46. Independent claims 16 and 27 recite the following new limitation: “the first aperture is on a portion of a first exterior surface of the third member and on a portion of a second exterior surface of the third member.” Dependent claims 20 and 28 further limit claims 16 and 27, respectively, by reciting: “the first exterior surface of the third member is a top exterior surface of the terminal end, and further wherein the second exterior surface of the third member is the side exterior surface of the third member.”

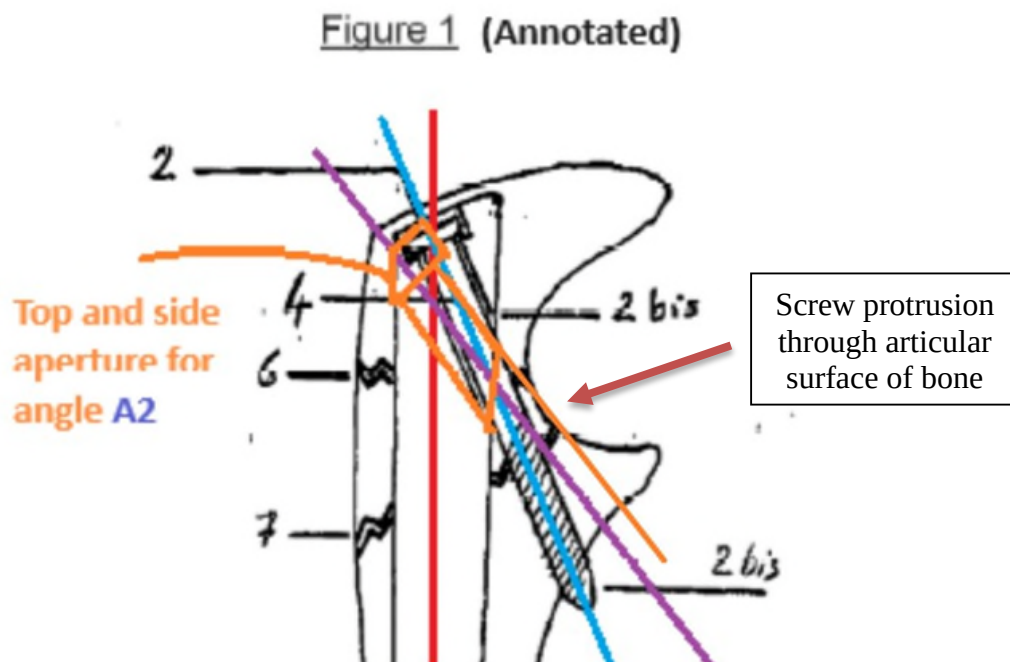
47. I understand that for his opinion that the combination of Cognet and

either Melkent or Gooch renders substitute claims 16-30 obvious, Mr. Dominguez relies on a potential modification of Cognet's nail design to meet the above new limitations of claims 16, 20, 27, and 28. See Ex. 1054, ¶¶ 37-41.

48. Mr. Dominguez opines that for Cognet's nail, "it is an obvious matter of design choice depending upon context" to choose a screw tunnel angle that causes the tunnel aperture to be on a top surface, a side surface, or on both simultaneously, and that "such design considerations are bone-agnostic." Ex. 1054, ¶¶ 37, 40. Mr. Dominguez's annotated version of Cognet's Figure 1 showing how, in his opinion, the angle of the tunnel can be modified, is reproduced below:



49. While Mr. Dominguez is correct that “context” matters, I disagree with the rest of his opinion regarding this modification. Indeed, in the context of Cognet’s nail and its application, there is a strong rationale *not* to modify Cognet’s nail by changing the screw tunnel angle from “A1” to “A2” based on Melkent and Gooch’s disclosures. Specifically, Mr. Dominguez does not explain how one could make this modification while ensuring that the screw does not partially or completely protrude through the articular surface of the bone depicted in Cognet’s Figure 1. To show the position of the screw in relation to the articular surface of the bone, I have further annotated Mr. Dominguez’s annotated Figure 1 by extending the orange line that represents the side exterior surface of the screw. As indicated by the red arrow, in the very position of the screw that Mr. Dominguez has proposed, the screw protrudes through the articular surface of the bone.



If this were to occur, the screw would damage the articular surface and cause irreparable joint pathology—an outcome that Cognet did not intend and that no competent surgeon would strive for.

50. Even if the screw did not protrude through the bone, the screw would certainly come dangerously close to doing so, creating the risk of great harm to the patient if the screw were inadvertently drilled through the articular surface. In my opinion, this is a risk no competent surgeon would not want to take without good reason. Mr. Dominguez does not even mention this risk in his analysis, much less provide a reason that a surgeon would want to take this risk. In my opinion, this risk consideration completely undercuts a reasonable expectation of success in modifying Cognet's nail in the manner that Mr. Dominguez proposes.

51. For these reasons, it is my opinion that the combination of Cognet and either Melkent or Gooch does not render substitute claims 16-30 obvious.

X. PETITIONER'S UNPATENTABILITY GROUNDS BASED ON GOOCH (EXHIBIT 1063)

52. Independent claims 16 and 27 of the '166 Patent recite the following new limitation: "the first aperture is on a portion of a first exterior surface of the third member and on a portion of a second exterior surface of the third member." Dependent claims 20 and 28 of the '166 Patent further limit claims 16 and 27, respectively, by reciting: "the first exterior surface of the third member is a top exterior surface of the terminal end, and further wherein the second exterior

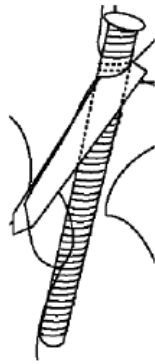
surface of the third member is the side exterior surface of the third member.”

53. As discussed above, I understand that for his opinion that the combination of Cognet and Gooch renders claims 16-30 of the '166 Patent obvious, Mr. Dominguez relies on a potential modification of Cognet's nail design to meet the above new limitations of claims 16, 20, 27, and 28. See Ex. 1054, ¶¶ 37-41. I further understand that Mr. Dominguez also relies on Gooch's Figure 20 to support his opinion that the above new limitations of claims 16, 20, 27, and 28 are disclosed in the prior art. *Id.* at ¶ 36. I disagree.

54. It is my opinion that Gooch does not disclose the new limitations of claims 16, 20, 27, and 28 that require an aperture to be on a first (*e.g.*, top) exterior surface and a second (*e.g.*, side) exterior surface of the third member. Gooch's Figure 20 is drawn in such a way that a POSITA would have no certainty as to whether the figure shows that the aperture is on both the top and side exterior surfaces, or whether it shows that the aperture is on only the side exterior surface, of the bone anchor. Figure 20 possibly reflects a perspective of the assembly such that the screw is inserted into the anchor through an aperture that lies entirely on a side surface of the anchor, and the screw partially *obscures* the top surface of the anchor, rather than being inserted *through* the top surface, of the anchor.

55. For the purposes of this declaration a three-dimensional model of an assembly similar to that in Gooch's Figure 20 was prepared under my direction

using SolidWorks. Screenshots of the model taken in different orientations of the assembly appear at Exhibit 2040. Below is a screenshot of the model with the assembly in a similar orientation to that of the assembly in Gooch's Figure 20. In both Gooch's figure and in the screenshot, it may appear as if a screw or post is going through the top of a nail.

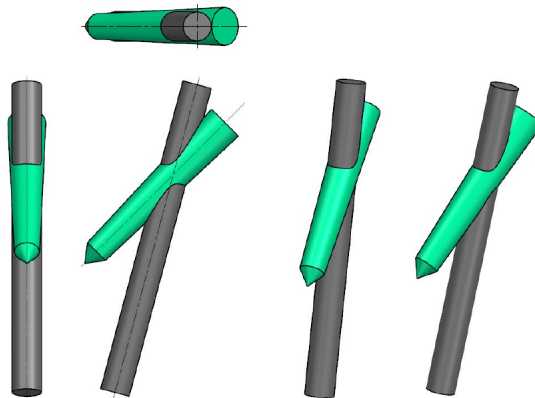


Gooch Figure 20 detail



Screenshot from 3D model (Ex. 2040)

In reality, however, the model is of an assembly in which the post enters the nail through an aperture that lies *entirely* on a *side* exterior surface of the nail. This is clearly visible in the screenshots below, which show the same assembly from different perspectives:



Screenshots from 3D model (Ex. 2040)

This shows that Gooch's Figure 20 alone does not indicate one way or the other whether the screw actually enters the bone anchor from both the top and side of the anchor.

56. For these reasons, it is my opinion that the combination of Cognet and Gooch does not render substitute claims 16-30 obvious.

* * *

I hereby declare under penalty of perjury that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true. I understand that willfully false statements and the like are punishable by fine, imprisonment, or both under 18 U.S.C. §1001.

Executed on August 20, 2024

By: 

Eric H. Ledet