

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

STRAUMANN USA, LLC,
Petitioner,

v.

SMART DENTURE CONVERSIONS, LLC,
Patent Owner.

Case No. IPR2025-00956

U.S. Patent No. 11,937,992

PETITIONER’S MOTION TO EXCLUDE

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I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.64(c) and the Scheduling Order (Paper 13 at 11), Petitioner Straumann USA, LLC respectfully moves to exclude the declarations of Patent Owner’s technical expert Karl Leinsing, Exhibits 2010 and 2021. Because Mr. Leinsing lacks the required experience with dental implants and prostheses, he does not qualify as a person of ordinary skill in the art in this case about dental technology. Under *Kyocera Senco Indus. Tools Inc. v. Int’l Trade Comm’n*, 22 F.4th 1369, 1376-78 (Fed. Cir. 2022), Mr. Leinsing’s declarations should therefore be excluded.

Petitioner also moves to exclude two podcasts Patent Owner relies on (“Voices from the Bench” and “Product Talk”) because Patent Owner neither submitted the podcasts as exhibits nor properly authenticated them.

II. ARGUMENT

A. Mr. Leinsing’s Declarations (Exhibits 2010 and 2021) Should Be Excluded Under Fed. R. Evid. 702 Because He Is Not a Person of Ordinary Skill in the Art

Patent Owner filed two declarations of its technical expert Karl Leinsing, Exhibits 2010 and 2021. Throughout its Preliminary Response (Paper 9), Response (Paper 26), and Sur-Reply (Paper 38), Patent Owner relies extensively on Mr. Leinsing’s declarations to offer his testimony on the issues of anticipation and written description support (Grounds 1-3; *see, e.g.*, Paper 9 at 34, 37, 39, 43-44;

Paper 26 at 28-29, 33, 36-47, 50-52, 57, 61-62; Paper 38 at 13-14, 17-19, 24) as well as obviousness (Grounds 4-6; *see, e.g.*, Paper 9 at 46-48; Paper 26 at 66-68, 71-72).

All of these issues on which Mr. Leinsing testifies are inquiries that must be viewed from the perspective of a person of ordinary skill in the art (“POSA”). *See, e.g., Wasica Fin. GmbH v. Cont’l Auto. Sys.*, 853 F.3d 1272, 1284 (Fed. Cir. 2017) (“Anticipation is an inquiry viewed from the perspective of one skilled in the art.”); *Mondis Tech. Ltd. v. LG Elecs. Inc.*, 149 F.4th 1291, 1300 (Fed. Cir. 2025) (“The written description ‘test requires an objective inquiry into the four corners of the specification from the perspective of a person of ordinary skill in the art.’”) (quoting *Ariad Pharms., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (*en banc*)); *HVLPO2, LLC v. Oxygen Frog, LLC*, 949 F.3d 685, 688 (Fed. Cir. 2020) (“Obviousness and each of its underlying components are analyzed from the perspective of a person of skill in the art.”).

Petitioner timely filed objections to Exhibits 2010 and 2021 on the ground that Patent Owner did not submit any evidence that Mr. Leinsing is a POSA qualified to provide expert testimony about these issues. Paper 14 at 2-3; Paper 29 at 1-2.

As explained below, because Mr. Leinsing is not a POSA, his declarations should be excluded under Fed. R. Evid. 702.

1. A Person of Ordinary Skill in the Art Would Have Had Experience Working With Dental Implants and Prostheses

As discussed in detail in the parties' papers on the merits, the parties dispute whether a POSA would have had several years of "experience working with (researching, developing and/or designing) dental implants and prostheses." Petitioner includes this experience in its definition of a POSA, while Patent Owner contends that "a POSA need not have dentistry-specific experience." *See* Paper 2 (Petition) at 31; Paper 26 (Response) at 19-23; Paper 33 (Reply) at 1-3; Paper 38 (Sur-Reply) at 10-11.

As explained in detail in Petitioner's Reply, Petitioner's POSA definition is correct because it tracks the field of the '992 patent, which is the design of dental implants and prostheses, and aligns with the key prior art (Bernhard, Poovey, Gracco, and Derey), which also relates to dental implants and prostheses. Patent Owner's definition, which vaguely refers to "experience in the field, such as experience with the design of bone implants, anchors, and/or screws," ignores that the '992 patent and the key prior art all relate specifically to *dental* implants and prostheses, and leaves unexplained what experience would or would not fall into "the field" of its definition. *See in detail* Paper 33 at 1-3.

The correct definition of a POSA therefore requires several years of experience working with dental implants and prostheses. *Id.*

2. Mr. Leinsing Has No Experience Working With Dental Implants and Prostheses, and Therefore Is Not a Person of Ordinary Skill in the Art

Patent Owner has not introduced any evidence that Mr. Leinsing has the required experience working with dental implants and prostheses to be a POSA.

In his CV, Mr. Leinsing lists “[m]edical device experience since 1992.” Ex. 2019 at 1. However, although Mr. Leinsing has worked in varied fields (such as mitral valves, glucose sensors, safety syringes, insulin pumps, bone anchors, support arms, or endometrial ablation devices), his professional experience does not include any work with dental implants and prostheses. *Id.* at 1-3. Nor do any of Mr. Leinsing’s publications, lectures, patents, or patent applications concern dental implants or prostheses. *Id.* at 3-6. Put simply, there is nothing in Mr. Leinsing’s CV related to dental technology, let alone dental implants or prostheses.

In his declarations, Mr. Leinsing stresses his experience with “bone anchors, bone screws, and bone plates.” Ex. 2010 at ¶6; Ex. 2021 at ¶6. That experience corresponds to his proposed POSA definition. Ex. 2010 at ¶35; Ex. 2021 at ¶46 (“...at least three years of experience in the field, such as experience with the design of bone implants, anchors, and/or screws”). But as discussed in Section II.A.1 above, the field of the ’992 patent is the design of *dental* implants and prostheses, and therefore the correct POSA definition requires experience working with *dental* implants and prostheses. Mr. Leinsing’s experience with bone anchors, bone screws,

and bone plates simply does not fit the bill, even though it may be remotely related. *See Extreme Networks, Inc. v. Enterasys Networks, Inc.*, 395 F. App'x 709, 715 (Fed. Cir. 2010) (nonprecedential) (“General experience in a related field may not suffice when experience and a skill in specific product design are necessary to resolve patent issues.”).

Mr. Leinsing, therefore, does not qualify as a POSA.

3. Because Mr. Leinsing Is Not a Person of Ordinary Skill in the Art, His Declarations Should Be Excluded

Under Fed. R. Evid. 702 and *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 597 (1993), expert testimony must be both relevant and reliable.

“To offer expert testimony from the perspective of a skilled artisan in a patent case—like for claim construction, validity, or infringement—a witness must at least have ordinary skill in the art. Without that skill, the witness’ opinions are neither relevant nor reliable.” *Kyocera Senco Indus. Tools Inc. v. Int’l Trade Comm’n*, 22 F.4th 1369, 1376-77 (Fed. Cir. 2022).

In *Kyocera*, the level of ordinary skill in the art required experience in the design of power nailers. The proffered expert, Dr. Pratt, had extensive experience in the design of fastener driving tools, but lacked specific experience in power nailer design. The Federal Circuit held that “Dr. Pratt does not have ordinary skill in the art,” and therefore, “the ALJ abused his discretion by admitting Dr. Pratt’s testimony on any issue that is analyzed through the lens of an ordinary skilled artisan.”

Kyocera, 22 F.4th at 1375-78; *see also* *Sierra Wireless v. Sisvel S.P.A.*, 130 F.4th 1019, 1024-25 (Fed. Cir. 2025) (“[T]he Board abused its discretion by relying on the testimony of Sisvel’s expert Mr. Bates, absent a finding that he is qualified as an ordinarily skilled artisan.”).

Numerous Board decisions have applied *Kyocera* and excluded (or gave “no weight” to) testimony from the perspective of a skilled artisan by proffered experts who did not qualify as a POSA. *See Disney Media & Entm’t Distrib. LLC v. Digital Media Tech. Holdings, LLC*, IPR2024-00736, Paper 40 at 9-11, 2025 Pat. App. LEXIS 4720, at *10-14 (P.T.A.B. Aug. 25, 2025) (“Our reviewing court has held that if a declarant fails to qualify as a person of ordinary skill in the art, then that person’s testimony regarding the knowledge or motivations of one of ordinary skill in the art is irrelevant as a matter of law”) (citing *Kyocera*); *Unified Patents, LLC v. AK Meeting IP LLC*, IPR2022-01142, Paper 20 at 19-20, 2024 Pat. App. LEXIS 59, at *19-21 (P.T.A.B. Jan. 5, 2024) (“Where a proffered witness on such issues is shown not to have ordinary skill in the art, it is an abuse of discretion to admit their testimony on any issue that is analyzed through the lens of an ordinarily skilled artisan”) (citing *Kyocera*); *Tableau Software, LLC v. iCharts LLC*, IPR2024-01387, Paper 36 at 88-92, 2026 Pat. App. LEXIS 1350, at *79-84 (P.T.A.B. May 7, 2026); *MPL Brands NV, Inc. v. Buzzballz, LLC*, PGR2024-00035, Paper 39 at 26-27, 2025 Pat. App. LEXIS 6567, at *25-26 (P.T.A.B. Nov. 17, 2025); *Apple Inc. v. Proxense*,

LLC, IPR2024-00233, Paper 35 at 38-40, 2025 Pat. App. LEXIS 3142, at *38-40 (P.T.A.B. June 17, 2025); *Billerud Aktiebolag (Publ) v. Westrock MWV, LLC*, IPR2023-01206, Paper 60 at 59-62, 2025 Pat. App. LEXIS 1131, at *65-67 (P.T.A.B. Mar. 12, 2025); *Nespresso USA, Inc. v. K-fee Sys. GmbH*, IPR2023-00502, Paper 26 at 10-16, 2024 Pat. App. LEXIS 3364, at *9-14 (P.T.A.B. Sept. 10, 2024).

Here, much like in *Kyocera*, Mr. Leinsing may have experience in related fields, but because he lacks experience with dental implants and prostheses, he does not qualify as a POSA. His opinions are therefore “neither relevant nor reliable,” and under *Kyocera* and its progeny, Mr. Leinsing’s declarations (Ex. 2010 and Ex. 2021) should be excluded. *See Kyocera*, 22 F.4th at 1375-78.

B. The “Voices From the Bench” and “Product Talk” Podcasts Should Be Excluded Because Patent Owner Neither Submitted Nor Authenticated Them

In its Preliminary Response (Paper 9) and its Response (Paper 26), Patent Owner relied on, but did not file as exhibits, excerpts from the podcasts “Voices from the Bench” and “Product Talk” (collectively, the “Podcasts”) as alleged evidence of objective indicia of non-obviousness. Paper 9 at 49, 51-53; Paper 26 at 76-77.

Petitioner timely filed objections to the Podcasts. Paper 14 at 5-8; Paper 29 at 4-6.

As explained below, the Podcasts should be excluded for two independent reasons: (1) Patent Owner did not submit them as exhibits, in violation of 37 C.F.R. § 42.63(a); and (2) Patent Owner did not authenticate them.

First, despite relying on the Podcasts and citing them numerous times, Patent Owner did not submit either of them as an exhibit as required. Instead, Patent Owner merely provided a URL. Paper 9 at ix; Paper 26 at 12. Pursuant to 37 C.F.R. § 42.63(a), “[a]ll evidence must be filed in the form of an exhibit.” A “Patent Owner’s failure to follow this procedure is problematic” when merely providing a URL because, “a URL is subject to change at any given point in time.” *Applied Materials, Inc. v. Ocean Semiconductor LLC*, IPR2021-01340, Paper 52 at 60-62, 2022 Pat. App. LEXIS 6203, at *68-69 (P.T.A.B. Feb. 7, 2022).

Because Patent Owner failed to submit the Podcasts as exhibits, the Podcasts should be excluded. *See id.* (excluding evidence cited as a URL and not submitted as an exhibit); *see also Aylo Freesites Ltd v. Dish Techs. L.L.C.*, IPR2024-00043, Paper 59 at 88, 2025 Pat. App. LEXIS 2040, at *102 (P.T.A.B. Apr. 14, 2025) (“[T]he cited Emmy website is not an exhibit; we only consider evidence filed in the form of an exhibit.”); *Garmin Int’l, Inc. v. Wisconsin Archery Prods., LLC*, IPR2018-01137, Paper 31 at 47, 2019 Pat. App. LEXIS 12957, at *49 (P.T.A.B. Dec. 9, 2019) (“Patent Owner relies on a hyperlink to a video that has not been submitted in the instant proceeding. ... Material available at the hyperlink in the absence of being

submitted could change over time. Accordingly, videos provided by only hyperlink are not evidence in the instant proceeding and will not be considered.”).

Second, Patent Owner did not properly authenticate the Podcasts. Under Fed. R. Evid. 901(a), “the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is.” Here, given that the Podcasts were neither authenticated by testimony under Fed. R. Evid. 901(b)(1) nor fall into any category of self-authentication under Fed. R. Evid. 902, the only conceivable basis for authentication could be the “distinctive characteristics” of the Podcasts under Fed. R. Evid. 901(b)(4). But as discussed above, Patent Owner cited to the podcasts as URLs rather than submit them as exhibits. “[T]he content of a URL is transitory,” meaning its content can be changed at any time. *Applied Materials*, Paper 52 at 61, 2022 Pat. App. LEXIS 6203, at *69. This makes the Podcasts open to deletion, alteration, or even manipulation, negating any “distinctive characteristics” of an authentic document under Fed. R. Evid. 901(b)(4).

The Podcasts should therefore be excluded for lack of authentication too.

III. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Board exclude the declarations of Karl Leinsing (Exhibits 2010 and 2021) and the podcasts “Voices from the Bench” and “Product Talk.”

Dated: July 31, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that on July 31, 2026, true and correct copies of PETITIONER'S MOTION TO EXCLUDE was served by email on counsel for Patent Owner at the following email addresses:

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