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 REPLY IN SUPPORT OF ITS MOTION TO EXCLUDE

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A. Leinsing's Testimony Should Be Excluded

SDC's primary response to Straumann's motion is to argue that Mr. Leinsing's lack of experience with dental implants and prostheses "go[es] to weight, rather than admissibility." Opp. at 1–3. SDC is incorrect. As explained in the motion, the Board must decide three issues to decide whether to exclude Leinsing's testimony: (1) the merits issue of what qualifications a POSA has; (2) whether Leinsing has these qualifications; and (3) if not, whether his testimony should be excluded. Mot. at 3–7. The first (merits) issue—including whether "dental-specific experience is necessary" (Opp. at 1)—has already been briefed in the parties' merits papers. Only the second and third issues are being briefed for this motion, and neither relates to the weight to give Leinsing's testimony.

SDC's arguments effectively ask the Board to stretch Straumann's POSA definition to include Leinsing. But SDC puts the cart before the horse: The Board must first determine a POSA's qualifications (which do not depend on Leinsing's qualifications) and then decide whether Leinsing has those POSA qualifications.

1. Straumann's Motion Is Not An "Unauthorized Sur-Sur-Reply"

Contrary to SDC's argument (Opp. at 1–3, 5–6), Straumann's motion is not "an unauthorized sur-sur-reply" in support of its POSA definition. The exclusion of Leinsing's testimony requested in the motion is contingent upon the Board adopting Straumann's POSA definition. That is why, for context, the motion merely

summarizes the parties' dispute in their merits papers about the POSA definition. Mot. at 3. However, the motion does not make any new arguments in support of Straumann's POSA definition or otherwise respond to SDC's Surreply.

2. Leinsing Is Not A POSA Under Straumann's Definition

SDC does not dispute that Leinsing has no experience with dental implants or prostheses, much less the five years of experience required by Straumann's POSA definition. Nevertheless, SDC argues that Leinsing qualifies as a POSA because his master's degree means his medical-device experience is sufficient under the clause in Straumann's definition that "[a] POSA could also have less formal education but commensurately more practical experience, or vice versa." Opp. at 4–6. SDC's argument distorts the meaning of this clause. "[C]ommensurately [less] practical experience" plainly means a shorter duration for the experience required under the definition, i.e. experience working with dental implants and prostheses. It does not mean different experience that did not involve dental implants or prostheses.

Contrary to SDC's assertions (*id.*), whether Leinsing's medical-device experience is sufficiently close to the required experience with dental implants and prostheses is beside the point. In *Kyocera*, the Federal Circuit held that the expert did not qualify as a POSA because he did not have the required experience designing power nailers, without analyzing whether his "extensive experience in the design and manufacture of fastener driving tools" was sufficiently close. *See Kyocera Senco*

Indus. Tools Inc. v. Int'l Trade Comm'n, 22 F.4th 1369, 1376–77 (Fed. Cir. 2022). Similarly, despite his education and experience, Leinsing does not have the specific dental implant and prosthesis experience required to be a POSA in this case.

3. Leinsing's Testimony Should Be Excluded Under *Kyocera*

SDC relies on the Trial Practice Guide (TPG) to argue that an expert need not be a POSA and that whether an expert qualifies as a POSA goes to weight, not admissibility. Opp. at 2–3. This is inconsistent with *Kyocera*, which held that the testimony of an expert who does not qualify as a POSA must be excluded as inadmissible because it is "neither relevant nor reliable" and "amount[s] to nothing more than advocacy from the witness stand." 22 F.4th at 1376–77. As explained in Straumann's motion, the Board has repeatedly applied *Kyocera* to exclude (or give no weight to) expert testimony on this basis. Mot. at 6–7 (collecting cases).[1, 2]

SDC's attempt to distinguish *Kyocera* on the ground that here the POSA definition is disputed (Opp. at 9) misses the mark because the exclusion requested in Straumann's motion is contingent upon the Board adopting Straumann's definition. *Sierra* is also not distinguishable (Opp. at 10) because the court applied *Kyocera* and held it was error to rely on testimony of an expert who was not a POSA.

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[1] *See also Samsung Elecs. v. Sung*, 2025 Pat. App. LEXIS 5328, *14 n.10 (P.T.A.B. Sept. 17, 2025) (applying *Kyocera* after acknowledging "tension" with earlier TPG).

[2] SDC's cited cases (Opp. at 3) are distinguishable because they pre-date *Kyocera*.

See Sierra Wireless, ULC v. Sisvel S.p.A., 130 F.4th 1019, 1024–25 (Fed. Cir. 2025).

Finally, contrary to SDC's argument (Opp. at 10–11), Straumann was not required to show prejudice. Rule 702 does not require prejudice, *Kyocera* did not require prejudice, and SDC cites no authority for this argument. Instead, SDC has—but did not meet—the burden to demonstrate that Leinsing's testimony is admissible.

4. SDC's Improper Attacks On Brunski Are Irrelevant and Incorrect

SDC does not dispute that Straumann's expert, Dr. Brunski, is qualified as a POSA, and SDC did not object to or move to exclude any of his testimony. Yet SDC devotes almost four pages to improper and irrelevant attacks on his expertise, based on a hodge-podge of out-of-context testimony snippets. Opp. at 6–9. The Board should ignore this irrelevant sideshow, but Straumann sets the record straight below.

Brunski's testimony about his experience with impressions and dental implants, including a snap-on dental fastener (Opp. at 6–7), underscores his decades of experience working with dental implants and prostheses. Ex. 2022 at 8:8–19:9.

Brunski's testimony about reverse-buttress threads and "other asymmetric threads" (Opp. at 7) reveals that he carefully answered questions about SDC's counsel's hypothetical embodiments that, as explained in Straumann's Reply, are <u>not</u> described in the specification. Ex. 2022 at 32:9–40:7, 47:16–52:2; Reply at 4–9.

Brunski's testimony also does not reveal a "superficial grasp of and attention to the subject matter." Opp. at 7–8. The first five cited snippets are answers about

specification excerpts describing irrelevant separable cap/coping-post embodiments. Ex. 2022 at 62:19–64:15, 75:13–76:18, 98:3–101:19, 101:20–106:8. His testimony about Bernhard explained it teaches a screw can avoid "inadvertent detachment" of the connector. *Id.* at 153:16–171:14. His testimony about heat-labile plastic is beside the point because he did not rely on that Poovey embodiment. *Id.* at 181:21–190:5.

In sum, Brunski's testimony reinforces the undisputed fact that—unlike Leinsing—he has decades of experience with dental implants and prostheses and qualifies as a POSA. Moreover, contrary to SDC's assertion (Opp. at 9), "comparing the deposition transcripts" does not "demonstrate[] that Leinsing has superior understanding of the technology." Straumann invites the Board to review both transcripts and reach its own judgment about which expert is qualified as a POSA and which provided "advocacy from the witness stand." *Kyocera*, 22 F.4th at 1377.

B. The Podcasts Should Be Excluded

Contrary to SDC's argument (Opp. at 12), submitting the podcasts as exhibits is not merely "better practice" but instead mandatory: Rule 42.63(a) states that "all evidence must be filed" as an exhibit. As such, the podcasts should be excluded.[3]

Finally, contrary to SDC's arguments (Opp. at 13–14), the two podcasts have not been—and cannot be—authenticated because they were not submitted as exhibits, and therefore cannot be evaluated under Rule 901(b)(4).

[3] SDC's cited cases are off point because the motions were not based on this rule.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that on August 14, 2026, a true and correct copy of Petitioner's Reply In Support Of Its Motion To Exclude was served by email on counsel for Patent Owner at the following email addresses:

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