

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ALBANY INTERNATIONAL CORP.,
Petitioner,

v.

VOITH PATENT GMBH,
Patent Owner.

Case IPR2025-01116
Patent 11,261,566

**PETITIONER'S OPPOSITION TO PATENT OWNER'S
MOTION TO STRIKE**

Voith's arguments in its Motion to Strike fall well short of warranting an "exceptional" remedy. *See* TPG, 80; *see also* IPR2020-01556, Paper 39. Petitioner's Reply properly responds to arguments raised in the Patent Owner's Response ("POR") and remains fully consistent with the theories originally presented in the Petition. Voith objects to rebuttals that merely address multiple erroneous and unforeseeable arguments raised for the first time in the POR—rebuttals to which Petitioner is plainly entitled. Arguments that "fairly respond[] only to arguments made in [Expert's] declaration and [Party's] response" are proper and should not be struck. *Belden Inc. v. Berk-Tek LLC*, 805 F.3d 1064 (Fed. Cir. 2015); *see Apple Inc. v. Andrea Elecs. Corp.*, 949 F.3d 697, 706-707 (Fed. Cir. 2020). Voith's motion should be denied.

I. ARGUMENT

A. Dr. Pastore's calculation of the LD/MDYD ratio using Adanur's MD image properly responds to arguments raised in Voith's POR

In its Motion, Voith's arguments that Reply § II.B.1 and EX1053 ¶¶9-15 improperly present "a new claim-mapping" (Mot., 1) ignores that Dr. Pastore's confirmatory calculations of Adanur's LD/MDYD are a direct response to arguments raised in Voith's POR and, further, demonstrate the viability of his original calculations. "[A] petitioner is entitled to respond to new arguments made in a patent owner response." *Axonics Inc. v. Medtronic Inc.*, 75 F.4th 1374, 1380

(Fed. Cir. 2023); 37 C.F.R. 42.23(b).

In his First Declaration, Dr. Pastore measured an average MD diameter in Adanur's CD image and an average MD diameter in Adanur's MD image. *See* EX1003, ¶¶70-71. He then calculated LD/MDYD using the diameters from the CD image and the loop diameter from the MD image. *See id.*, ¶135.

In response to Voith's POR challenging his reliance on both the MD and the CD image in calculating the ratio (*see* POR, 20), Dr. Pastore defended his approach, explaining that "the seven visible MD threads in the CD image provided an opportunity for more accurate statistics" that was justified by the "consistency between measurements" from the two different images. EX1053, ¶12. To demonstrate this, Dr. Pastore recalculated the LD/MDYD ratio using his original MD thread diameter measurement from Adanur's MD image. *See id.*, ¶12. As such, the recalculation was not to remedy an error in his original calculation, nor was it relied upon to assert Adanur's satisfaction of the LD/MDYD ratio based solely on Adanur's MD image. *See* Reply, 3 ("the obviousness case does not require that each parameter be extracted from the same fabric"). Instead, Dr. Pastore's recalculation confirms the veracity of his original inclusion of the thread diameter measurements from Adanur's CD image. *See* EX1053, ¶¶12-13 ("This consistency between measurements gave me assurance....").

Moreover, Voith misapplies *Wasica* in its overzealous attempt to strike Dr.

Pastore's verifying calculations. *See* Mot., 2 (citing *Wasica Fin. GmbH v. Cont'l Auto. Sys., Inc.*, 853 F.3d 1272, 1286 (Fed. Cir. 2017)). Indeed, Dr. Pastore's demonstration of consistent LD/MDYD ratios regardless of which image is used to calculate the MD thread diameter is precisely what is allowed by *Wasica*. 853 F.3d at 1286 (allowing expert to "explain how its original petition was correct."). Like in *Wasica*, Dr. Pastore confirms that data from both Adanur's MD and CD images are consistent with his original measurements of MD thread diameters from Adanur's CD image. *See* EX1003, ¶¶69-72; EX1053, ¶13.

B. Dr. Pastore's measurements of P-TACTS files in response to Voith's pixel count discrepancy allegations are proper

Voith's objections to Dr. Pastore's measurements of the uploaded, low-resolution Adanur and Rydin exhibits as improper "first-time measurements" fail to acknowledge that these measurements were responsive to Voith's allegations of pixel count discrepancies. Mot., 3, 4; *Axonics*, 75 F.4th 1374, 1380.

The Petition demonstrated obviousness of the claimed LD/MDYD ratio and thread density ranges based on measurements taken directly from the Adanur textbook and the Rydin article. *See* Petition, 15-18, 98-100; EX1030, ¶¶9-11; EX1031, ¶¶6-9. That the resolution of the Adanur and Rydin images was degraded during upload (*see* Reply, 8-9; EX1055, 6) does not change the result.

Responsive to Voith's allegations (*see* POR, 24), Dr. Pastore used the

uploaded files to confirm the robustness of his original conclusions. *See* Reply, 8-9, 24-25; EX1053, ¶¶35-48, ¶¶67-72. Voith’s myopic focus on Dr. Pastore’s designation of these confirmatory measurements as “new measurements” (Mot., 3 (citing EX1053, ¶¶35-36)) ignores that these were not new measurements that support a new theory, nor intended to cure a deficiency in his original analysis. Instead, they are responsive to Voith’s allegations of pixel count discrepancies and, more importantly, used merely to confirm Petitioner’s original analysis presented in the Petition. And importantly, they measure the same dimensions as his original measurements (namely, MD thread diameter and loop diameter).

Voith misapplies *Corning* to support its allegation that Dr. Pastore’s “new measurements” are improper. *See* Mot., 3-4 (citing IPR2013-00052, Paper 88, 11-14 (PTAB May 1, 2014)). In *Corning*, Petitioner “discovered errors” in its original testing, and in its Reply, provided test data from “an entirely new batch of samples tested under a new protocol.” *Id.* at 11. In contrast, Dr. Pastore’s measurements on the uploaded files do not remedy errors in his original measurements, nor constitute measurements of new evidence; rather, they demonstrate that even the uploaded degraded files support Petitioner’s original position.

Regarding Voith’s allegation that “Dr. Pastore also used tools and a measurement process disclosed nowhere in EX1003” (Mot., 3), Dr. Pastore provided a detailed discussion of his methodology, which he explains is a well-

known “standard technique” (EX1053, ¶31), in direct response to Voith questioning his “tool or methodology.” POR, 23. Dr. Pastore also used additional techniques in his Second Declaration (*e.g.*, the “equivalent diameter” calculation) (*see* Mot., 3), but these confirmatory calculations do not replace his original calculations. Instead, these subsequent calculations merely verify the robustness of his original conclusions. *See* EX1053, ¶35 (“these new measurements ... **confirm my original measurements**” (emphasis added)); *see also id.*, ¶50.

C. Voith will not be unduly prejudiced

Denying Voith’s Motion to Strike will result in no prejudice. Voith has failed to demonstrate why Petitioner’s arguments are improper, much less inconsistent with its theories set forth in the Petition. Moreover, Voith retains a full opportunity to test those arguments—both by deposing Dr. Pastore and by presenting its position at oral hearing. Voith’s citation to *NuVasive* (Mot., 5) is not pertinent here. The *NuVasive* Court found was that it was “[n]ot until [Petitioner’s] Reply ... was NuVasive given fair notice ... of the Figure 18 factual assertion on which the Board eventually relied.” *In re NuVasive, Inc.*, 841 F.3d 966, 973 (Fed. Cir. 2016). Here, the Reply does not rely on previously uncited portions of the prior art; thus, giving Voith sufficient notice of the cited art and its relied portions.

Petitioner respectfully requests denial of Voith’s Motion to Strike in full.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 CFR §§ 42.6(e)(1) and 42.6(e)(4)(iii), the undersigned certifies that on August 7, 2026, a complete and entire copy of this Petitioner's Reply to Patent Owner's Motion to Strike was provided via email to the Patent Owner by serving the email correspondence addresses of record as follows:

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