

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

STRAUMANN USA, LLC,
Petitioner,

v.

SMART DENTURE CONVERSIONS, LLC,
Patent Owner.

PGR2025-00054
Patent 12,156,781 B1

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

August 26, 2026

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LIST OF PATENT OWNER’S EXHIBITS

Exhibit No.	Description
2001	First Supplemental Complaint, <i>Smart Denture Conversions, LLC v. Straumann USA, LLC</i> , No. 1:24-cv-00507-JCB (D. Del. Feb. 4, 2025), ECF No. 34
2002	Docket Sheet, <i>Smart Denture Conversions, LLC v. Straumann USA, LLC</i> , No. 1:24-cv-00507-JCB (D. Del.)
2003	Complaint, <i>Smart Denture Conversions, LLC v. Straumann USA, LLC</i> , No. 1:24-cv-00507-JCB (D. Del. Apr. 23, 2024), ECF No. 1
2004	Defendant Straumann USA, LLC’s Opening Brief in Support of its Motion to Dismiss Plaintiff’s Complaint for Failure to State a Claim for Relief under Fed. R. Civ. P. 12(b)(6), <i>Smart Denture Conversions, LLC v. Straumann USA, LLC</i> , No. 1:24-cv-00507-JCB (D. Del. July 29, 2024), ECF No. 13
2005	Order, <i>Smart Denture Conversions, LLC v. Straumann USA, LLC</i> , No. 1:24-cv-00507-JCB (D. Del. Jan. 30, 2025), ECF No. 31 (“scheduling order”)
2006	Stipulated Protective Order, <i>Smart Denture Conversions, LLC v. Straumann USA, LLC</i> , No. 1:24-cv-00507-JCB (D. Del. Mar. 4, 2025), ECF No. 44
2007	Defendant Straumann USA, LLC’s Initial Invalidity Contentions, No. 1:24-cv-00507-JCB (D. Del.) (served June 2, 2025)
2008	Order Regulating Practice for civil cases assigned to The Honorable J. Campbell Barker, <i>Smart Denture Conversions, LLC v. Straumann USA, LLC</i> , No. 1:24-cv-00507-JCB (D. Del. Dec. 16, 2024), ECF No. 22
2009	Notice of <i>Sotera</i> Stipulation, <i>Smart Denture Conversions, LLC v. Straumann USA, LLC</i> , No. 1:24-cv-00507-JCB (D. Del. June 4, 2025), ECF No. 57
2010	Declaration of Karl Leinsing

2011	Smart Denture Conversions, <i>Technique Manual</i> , available at https://shorturl.at/798cX
2012	International Patent Application No. WO 96/2019 (Sept. 26, 1996) (“Sutter 1996”)
2013	U.S. Patent No. 6,332,777 B1 (Dec. 25, 2001) (“Sutter 2001”)
2014	U.S. Patent No. 3,115,804 (Dec. 31, 1963) (“Johnson”)
2015	U.S. Patent No. 5,904,483 (May 18, 1999) (“Wade”)
2016	U.S. Patent No. 6,517,543 B1 (Feb. 11, 2003) (“Berrevoets”)
2017	U.S. Patent No. 9,568,037 B2 (Feb. 14, 2017) (“Staniszewski”)
2018	U.S. Patent Publication No. 2002/0094255 A1 (July 18, 2002) (“Neuhengen”)
2019	Curriculum Vitae of Karl Leinsing
2020	Declaration of Dr. Brandon Kofford
2021	Second Declaration of Karl Leinsing
2022	Deposition Transcript of John B. Brunski, Ph.D. (Feb. 13, 2026)
2023	U.S. Patent No. 5,350,302 (Sept. 27, 1994) (“Marlin”)
2024	U.S. Patent No. 9,844,425 (Dec. 19, 2017) (“Thomke”)
2025	U.S. Patent No. 5,213,502 (May 25, 1993) (“Daftary”)

TABLE OF ABBREVIATIONS

Bernhard	Ex-1003
Brunski	Ex-1002
Brunski Dep.	Ex-2022
Gracco	Ex-1006
ID	Institution Decision
Leinsing Dep.	Ex-1033
Poovey	Ex-1005
SDC	Patent Owner
POR	Patent Owner's Response
POSA	Person of ordinary skill in the art
Priority Applications	Ex-1009, Ex-1010, Ex-1011, and Ex-1012 (collectively)
'781 Patent	Ex-1001
'992 Patent	U.S. Patent No. 11,937,992 (Mar. 26, 2024)
1Leinsing	Ex-2010
2Leinsing	Ex-2021

I. INTRODUCTION

The Board should deny Petitioner's Motion to Exclude (the "Motion") in its entirety.

Petitioner seeks to exclude the declarations of Patent Owner's technical expert, Karl Leinsing (Exs. 2010 and 2021), based on Petitioner's disputed view of the ordinary skill in the art (*i.e.*, the POSA definition). At institution, the Board found the respective witnesses' "qualifications ... to testify as to the subject matter of their declarations" to be "uncontested, on this record," and adopted Petitioner's proposed POSA definition only "at this stage," inviting the parties to "further develop[] this issue at trial." Inst. Dec. (Paper 14) at 13, 19.

Exclusion is inappropriate because Mr. Leinsing qualifies as a POSA under both parties' definitions. He holds bachelor's and master's degrees in mechanical engineering, is a licensed Professional Engineer, and has decades of experience with medical devices, bone anchors, bone screws, bone plates, tissue anchors, and implantable fixation system. *See generally* Ex. 2019 (Leinsing CV).

The Motion is really an unauthorized sur-sur-reply asking the Board to resolve a merits dispute via evidentiary ruling. Arguing that dental-specific experience is necessary is a challenge that, at most, goes to weight. Nothing Petitioner argues merits excluding or discounting the weight of Leinsing's declarations.

II. PETITIONER’S MOTION ASKS THE BOARD TO RESOLVE A MERITS DISPUTE.

A motion to exclude is not a chance for Petitioner to reargue its case. It cannot “address[] the weight to be given evidence,” “challenge the sufficiency of the evidence to prove a particular fact,” or “present arguments that should have been presented in responses and replies.” Trial Practice Guide (“TPG”) at 79. Rather, a motion to exclude may only “challenge admissibility under the applicable rules of evidence.” 37 C.F.R. §§ 42.62, 42.64.

These limitations apply with particular force here, where Petitioner challenges only the expert’s qualifications rather than the relevance or reasoning of specific portions. “[T]here is ... *no requirement of a perfect match between the expert’s experience and the relevant field.*” TPG at 3 (citing *SEB v. Montgomery Ward*, 594 F.3d 1360, 1373 (Fed. Cir. 2010)).¹ In fact, “[a] person may not need to be a person of ordinary skill in the art in order to testify as an expert under Rule 702” and “rather must be ‘qualified in the pertinent art.’” *Id.* (citing *Sundance v. DeMonte Fabricating*, 550 F.3d 1356, 1363–64 (Fed. Cir. 2008)).

Thus, the Board has repeatedly held that challenges to expert qualifications—including whether the expert satisfies a proposed POSA definition—go to weight, rather than admissibility. *See, e.g., MindGeek v. Skky*,

¹ All emphasis in quoted text is added.

2016 WL 763036, at *10 (PTAB Jan. 29, 2016) (“Most of Petitioner’s arguments in support of the motion [to exclude] appear to address the weight to be given the testimony, as opposed to its admissibility.”). The Board is “capable of discerning from the testimony, and the evidence presented, whether the witness’ testimony should be entitled to any weight, either as a whole or with regard to specific issues.” *Daiichi v. Alethia*, 2016 WL 4375259, at *12 (PTAB June 14, 2016).

Because it can do so here as well, it should deny the Motion.

III. THE BOARD SHOULD NOT EXCLUDE LEINSING’S TESTIMONY.

A. Leinsing’s Qualifications Satisfy Both Proposed Parties’ POSA Definitions.

The Board cannot exclude Leinsing’s opinions because he is a POSA under both parties’ proposed definition.² A POSA, according to Petitioner, must have a bachelor’s degree in mechanical engineering and five years’ experience working with dental implants and prostheses. Pet. at 31. But critically, “[a] POSA could also have less formal education but commensurately more practical experience, or vice versa.” *Id.*

Leinsing is a POSA under both definitions. He holds bachelor’s *and* master’s degrees in mechanical engineering and is a licensed Professional Engineer. His CV

² The Motion never asserts that Leinsing would not be a POSA under the Patent Owner’s definition. He is. POPR at 20–21; POR at 16–20; 2Leinsing ¶¶ 49–64.

lists *decades* of medical-device experience involving bone anchors, bone plates and screws, tissue anchors and anchoring systems, and other implantable fixation devices. He has been granted multiple patents specifically directed to tissue anchors and anchoring systems. He has worked with dental veneers, laminates, and forming spoons and has litigation-specific experience involving bone plates (*OsteoMed*) and bone anchors, guides, drills, and inserters (*Dr. Augé*). Ex. 2019 at 1–4, 6–8; Ex. 2021 ¶¶ 6–10. This work, Leinsing testified, substantively overlaps with the technology here. *See* Leinsing Dep. at 64:11–65:2.

Leinsing is qualified as a POSA even without significant work specifically with dental implants. Pet. at 31. Petitioner does not suggest, for example, that implants in jawbones are meaningfully different from implants in any other bone. And Petitioner’s own definition recognizes that “[a] POSA could also have less formal education but commensurately more practice experience, or vice versa.” *Id.*

Leinsing’s master’s degree, by itself, more than adequately substitutes for any shortage of dental-specific experience; it is “commensurately more” formal education which substitutes for inconsequential differences in practical experience. That is especially true in combination with his *decades* of experience inventing and designing bone anchors, bone screws, bone plates, and other implantable fixation and attachment systems—which present overlapping mechanical, biomechanical, and materials-science design challenges to the systems taught in the ’781 Patent.

This experience qualifies Leinsing as an expert, not a mere POSA, and well within the range Rule 702 and the TPG require, “qualified in the pertinent art.”

The Motion hangs on the invalid notion that Leinsing is not a POSA merely because he does not “ha[ve] the required experience working with dental implants and prostheses.” Mot. at 4. But whether Petitioner’s definition is even correct is a live disagreement that the Board has not resolved. Thus, the Motion does not apply a settled definition; it asks the Board instead to adopt Petitioner’s position on a live, disputed merits question and then exclude Leinsing’s testimony. That is improper. TPG at 79. The Board should resolve this fully briefed dispute in its final written decision in light of the complete record—not by evidentiary ruling.

B. Brunski’s Deposition Demonstrated He Is Less Qualified Than Leinsing.

Petitioner’s own expert, Brunski, undermines any suggestion that a POSA must have worked with dental implants specifically. Brunski’s deposition demonstrated that nothing in his work offers him any special insight or expertise relevant to this technology.

Brunski admitted, for example:

- He had no direct experience with denture conversions and was merely “familiar with general impression taking”;
- He “was not specifically involved in that space,” except to the extent “there’s some overlap between dentistry and impression methods”;

- His closest related work was a project “25 years ago,” involving a permanent “snap on mechanism” that “didn’t really have anything to do with impression taking”;
- He could not recall specific products used in traditional conversion techniques as of 2000;
- He had no idea whether Nobel Biocare commercialized a product using Bernhard’s technology;
- Open-tray versus closed-tray techniques were not “top of mind” for him and he couldn’t “answer ... one way or the other” whether these were “top of mind in the field” at the time either; and
- He never heard of Patent Owner, its products, or the accused NeoConvert product before this engagement.

Brunski Dep. 9:15–10:15, 12:20–13:3, 13:21–14:14, 15:17–16:4, 17:17–18:5, 18:6–19:9; 134:8–13.

But if Brunski showed little familiarity with impression-taking generally, he showed even *less* command of the discrete fastener features at issue. Asked if a POSA could design a reverse buttress thread to screw into symmetric fasteners—as the specification discloses—Brunski shrugged that he “ha[d]n’t sort of considered that idea in depth” because “it’s *not immediately obvious to me that it would*

work.” Brunski Dep. 48:4–49:11. Yet he later conceded a POSA could design such a thread. *Id.* at 51:14–22, 114:3–5.

Brunski similarly didn’t “know off the top of [his] head” and couldn’t “specify” “other asymmetric threads that are not buttress or reverse buttress threads.” Brunski Dep. 39:24–40:7. His superficial grasp of and attention to the subject matter manifested itself repeatedly. *E.g., id.* at 63:22–23 (“I’m not sure about that. I don’t know if there’s a special name.”); 76:14–18 (“Q. And you could have a temporary retention feature that doesn’t include a split post, correct? ... A. I don’t know what it is, though.”); 100:10–16 (“Q. Did you think through these possibilities as you wrote your report? A. Not in detail, no.”); 100:22–25 (“Q. Don’t you think you should have thought through these in more detail? ... A. Sure, that would help.”); 102:17–18 (“I don’t know what two sho[t] molding is.”); 157:18–25 (“Q. In Bernhard whenever it’s talking about the temporary fastener, it uses the words provisional connection, doesn’t it? ... A. That I’m not sure about. Q. Isn’t that something that you would have learned from reading it? A. Well, I’m not sure.”); 167:13–20 (“Q. So my question is: When anywhere in Bernhard does it refer to using a threaded fastener for a provisional connection feature rather than the second connection feature? A. I don’t know the answer to that. Q. It doesn’t, correct? A. I don’t know.”); 165:14–15 (“I’m not sure what you mean by provisional connection feature.”); 182:13–16 (“Q. What other applications is heat-

labile plastic used ...? A. I can't think of anything offhand. I don't know the specific example for you."); 229:22–230:2 (“I don't know exactly when [closed-tray techniques] sort of took over. It's a good question.”).

Finally, Brunski testified that his background on one project mirrored exactly the kind of consultative division of labor that Patent Owner's proposed POSA definition contemplates. He described working alongside a colleague who was “more of a bone expert.” *Id.* at 11:3–13.

In short, nothing about Brunski's experience gave him any special insights into the mechanical fastener technology at issue. POR at 18–20. Simply comparing the deposition transcripts (Exs. 1033 and 2022) demonstrates that Leinsing, not Brunski, has superior understanding of the technology. The Court should deny the Motion. Not only is Leinsing qualified to testify—he is more qualified than Petitioner's expert.

C. Petitioner's Cases Do Not Require Or Support Exclusion.

Petitioner's reliance on *Kyocera v. ITC*, 22 F.4th 1369 (Fed. Cir. 2022), is misplaced because *Kyocera's* posture is fundamentally different from this case. There, the proffered expert accepted and applied the tribunal's proposed POSA definition, and *Kyocera* “failed to preserve any challenge to the level of ordinary skill in the art.” *Id.* at 1375–76. The Federal Circuit therefore simply reviewed

whether the ITC abused its discretion in admitting an expert without the specific experience required by an undisputed POSA definition. *Id.* at 1377–78.

Here, on the other hand, the POSA definition *is* disputed and Leinsing has not conceded that he is unqualified under either definition. If anything, *Kyocera* underscores the principle that exclusion is inappropriate here, where the applicable POSA definition has not been settled.

Sierra Wireless v. Sisvel, 130 F.4th 1019 (Fed. Cir. 2025), is similarly unhelpful to Petitioner. There, the Federal Circuit faulted the Board for relying on an expert’s testimony “absent a finding that he is qualified as an ordinarily skilled artisan”—that is, for failing to make any qualification finding at all. *Id.* at 1024–25.

Nor does *Extreme Networks v. Enterasys Networks*, 395 F. App’x 709 (Fed. Cir. 2010), support exclusion. In that case the Federal Circuit observed only that “[g]eneral experience in a related field may not suffice when experience and skill in specific product design are necessary to resolve patent issues.” *Id.* at 715. But there is nothing specific to dental implants that is “necessary to resolve” the issues in this case about screw design. *Id.* Leinsing has sufficiently “established an adequate relationship between his experience and the claimed invention,” *SEB*, 594 F.3d at 1372–73, and show he is “an expert in the relevant art,” *Sundance*, 550 F.3d at 1363–64.

D. Petitioner Cannot Demonstrate Prejudice From Admission.

Finally, the Board should not exclude Leinsing's because Petitioner cannot show any prejudice from their admission. (The Motion never even tries.)

Patent Owner timely disclosed Leinsing's declarations, Leinsing's CV, and the materials considered. Ex. 2010; Ex. 2021; Ex. 2019. At deposition, Petitioner's counsel questioned Leinsing at length about his background, experience, and the lack of dental-implant specific experience which Petitioner now highlights.

Leinsing Dep. 62:11–70:13, 72:1–88:15. There has been no unfair surprise or concealment, and ample opportunity to test the challenged testimony. And “[t]he policy considerations for excluding expert testimony” under Rule 702 “are less compelling in bench proceedings such as *inter partes* reviews than in jury trial because, unlike a lay jury, the Board by statutory definition has competent scientific ability ... and has significant experience in evaluating expert testimony.” *Sig Sauer v. NST Global*, 2021 WL 2562314, at *28 (PTAB June 22, 2021).

In a similar context in *Biomarin Pharmaceutical v. Genzyme Therapeutic Products*, 2015 WL 1009195, at *14 (PTAB Feb. 23, 2015), one party moved to exclude expert testimony, in part because of the expert's “alleged admissions that they lack expertise ... in the areas of pre-clinical studies or scaling.” The Board, however, declined to grant “the extreme remedy of exclusion,” saying the objections to the expert testimony at issue “go to the weight and sufficiency of the

testimony, rather than its admissibility.” *Id.* And exclusion was doubly unwarranted, the Board explained, because the objecting party “had the opportunity to address any alleged deficiencies in the testimony” in its briefing. *Id.* “[W]e are capable of taking note of those inadequacies and weighing that testimony accordingly.” *Id.*

As in *Biomarin*, Petitioner “had the opportunity to address any alleged deficiencies” during its deposition of Mr. Leinsing and its later briefing. *Id.* The Board has a complete record to assess Leinsing’s testimony in light of his qualifications. And since Mr. Leinsing’s is amply qualified to testify as a POSA under any standard, his declarations should be given the weight they deserve. They should not be discounted in any respect, much less excluded in their entirety.

IV. CONCLUSION

The Board should deny the Motion in its entirety and consider Exhibits 2010 and 2021.

Respectfully submitted,

Dated: August 26, 2026

By: /s/ Kelsey I. Nix
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Counsel for Patent Owner

CERTIFICATE OF COMPLIANCE

Pursuant to 37 C.F.R. § 42.24(d), the undersigned certifies that the foregoing Patent Owner's Response in Opposition to Motion to Exclude contains fewer than 15 pages, which is within the limit set in 37 C.F.R. § 42.24(b)(3). This page count does not include the items excluded by 37 C.F.R. § 42.24.

Respectfully submitted,

Dated: August 26, 2026

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Counsel for Patent Owner

CERTIFICATE OF SERVICE

I hereby certify that on August 26, 2026, I caused a true and correct copy of the foregoing Patent Owner's Response in Opposition to Motion to Exclude to be served via email on Petitioner at the following addresses:

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