

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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HOWMEDICA OSTEONICS CORP. and  
STRYKER IRELAND LTD.,

Plaintiffs,

v.

DEPUY ORTHOPAEDICS, INC.,

Defendants.

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Civil Action No. 11-CV-6498  
11-CV-6499  
11-CV-6500  
11-CV-6511

(SDW) (MCA)

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HOWMEDICA OSTEONICS CORP. and  
STRYKER IRELAND LTD.,

Plaintiffs,

v.

WRIGHT MEDICAL TECHNOLOGY,  
INC.,

Defendant.

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**ORDER (Markman Hearing)**

July 9, 2013

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HOWMEDICA OSTEONICS CORP. and  
STRYKER IRELAND LTD.,

Plaintiffs,

v.

SMITH & NEPHEW, INC.,

Defendant.

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HOWMEDICA OSTEONICS CORP. and  
STRYKER IRELAND LTD.,

Plaintiffs,

v.

ZIMMER, INC.,

Defendant.

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**WIGENTON**, District Judge.

This matter, having come before the Court on the briefs and supporting materials of Plaintiffs Howmedica Osteonics Corporation (“Howmedica”) and Stryker Ireland Limited (“Stryker”) (collectively “Plaintiffs”) and Defendants DePuy Orthopaedics, Incorporated and DePuy Products, Incorporated (“DePuy”); Wright Medical Technology, Incorporated (“Wright”); Smith & Nephew, Incorporated (“S&N”); and Zimmer, Incorporated (“Zimmer”) (collectively “Defendants”) regarding the request for a patent claim construction pursuant to Local Patent Rule 4.5(a) in connection with patent claims in Plaintiffs’ U.S. Patent No. 6,475,243 (“the ’243 Patent”) and Defendants’ U.S. Patent No. 6,610,097 (“the ’097 Patent”), and this Court, having carefully reviewed and considered the submissions and arguments of the parties, for the reasons stated in this Court’s Opinion dated July 9, 2013,

**IT IS** on this 9th day of July, 2013,

**ORDERED** that the disputed terms as to the ’243 Patent will be construed as follows:

1. “intraoperatively” means “during a surgical procedure”;
2. “system” means “a set of related parts”;
3. “kit” means “a subset of related parts”;
4. “assembly” means “a collection of related parts that have been combined to form a completed unit”;
5. the language relating to the selection of a bearing member does not require construction and should be given its plain and ordinary meaning;
6. “juxtaposed with” means “the recess is essentially midway along the taper such that the effectiveness of each is not compromised”;
7. “bearing member” does not require construction and should be given its plain and ordinary meaning;

8. “selectable [for] effective selective securement” means that it “requires that the selected bearing be effectively secured by one securing structure or the other, but not both simultaneously”; and
9. the language relating to the securement tapers means that “requires that the internal taper of the shell mates with the external taper of a metallic securing member (*i.e.* sleeve) secured to and separate from the bearing member”;

and it is further

**ORDERED** that the disputed terms as to the '097 Patent will be construed as follows:

1. “a female taper between said locking recess and said shell cavity” means “a female taper is located between said locking recess and said shell cavity”;
2. “a male taper between said locking member and said bearing cavity” means “a male taper is located between said locking member and said bearing cavity”;
3. “a female taper between said anti-rotation recesses and said shell cavity” means “a female taper is located between said anti-rotation recesses and said shell cavity”;
4. “a male taper between said anti-rotation protrusions and said bearing cavity” means “a male taper is located between said anti-rotation protrusions and said bearing cavity”;
5. “a locking recess disposed between said anti-rotation recesses and said shell cavity” means “a locking recess is located between said anti-rotation recesses and said shell cavity”;
6. “a locking member disposed between said anti-rotation protrusions and said bearing cavity” means “a locking member is located between said anti-rotation protrusions and said bearing cavity”;
7. “wherein when said bearing is positioned within said shell cavity, (i) said male taper and said female taper engage each other to provide a first connection between said bearing and said shell” means “when the bearing is placed within the shell, the male taper of the bearing engages the female taper of the shell; this is a first connection between the bearing and shell”;
8. “wherein when said bearing is positioned within said shell cavity, (i) said locking member is positioned within said locking recess to provide a first connection between said bearing and said shell” means “when the bearing is placed within the shell, a locking member on the bearing is positioned within a locking recess on the shell, providing a first connection between said bearing and the shell”;

9. “anti-rotation recesses defined in said inner surface” means “anti-rotation recesses are in the inner surface of the shell”;
10. “anti-rotation protrusions defined in said outer surface” means “anti-rotation protrusions are on the outer surface of the bearing”;
11. “bearing” does not require construction and should be given its plain and ordinary meaning;
12. “configured with, and (ii)” as it appears in claims 1, 9, and 14 will be corrected to read “configured with (i)”;
13. “inner” as it appears in claims 2, 13, and 15—“and said locking member extends circumferentially around said inner surface of said bearing”—will be corrected to “outer”; and
14. “bearing” as it appears in dependent claim 7—“and said first number of recesses is positioned adjacent said upper bearing rim”—will be corrected to read “shell.”

s/ Susan D. Wigenton  
**Susan D. Wigenton, U.S.D.J.**

cc: Madeline Cox Arleo, U.S.M.J.