

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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RESMED LIMITED, RESMED INC., and RESMED CORP.,  
Petitioner,

v.

FISHER & PAYKEL HEALTHCARE LIMITED,  
Patent Owner.

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Case IPR2016-01716 (Patent 8,550,072)  
Case IPR2016-01717 (Patent 8,550,072)  
Case IPR2016-01719 (Patent 6,398,197)  
Case IPR2016-01725 (Patent 7,111,624)  
Case IPR2016-01727 (Patent 7,111,624)  
Case IPR2016-01729 (Patent 8,091,547)  
Case IPR2016-01730 (Patent 8,091,547)  
Case IPR2016-01731 (Patent 8,091,547)<sup>1</sup>

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Before HYUN J. JUNG, CARL M. DeFRANCO, and  
MICHAEL L. WOODS, *Administrative Patent Judges*.

WOODS, *Administrative Patent Judge*.

DECISION

Motion for *Pro Hac Vice* Admission of Frank E. Scherkenbach  
37 C.F.R. § 42.10

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<sup>1</sup> As similar motions were filed in each related case, we issue one Decision and enter it in each proceeding.

IPR2016-01716 (Patent 8,550,072)	IPR2016-01717 (Patent 8,550,072)
IPR2016-01719 (Patent 6,398,197)	IPR2016-01725 (Patent 7,111,624)
IPR2016-01727 (Patent 7,111,624)	IPR2016-01729 (Patent 8,091,547)
IPR2016-01730 (Patent 8,091,547)	IPR2016-01731 (Patent 8,091,547)

As authorized by the Notice of Filing Date Accorded to Petition (Paper 5), Petitioner, ResMed Limited, filed a motion for *pro hac vice* admission of Frank E. Scherkenbach (“Motion,” Paper 22) along with a declaration of Frank E. Scherkenbach in support of the Motion (Ex. 1033).<sup>2</sup> Petitioner represents that Patent Owner, Fisher & Paykel Healthcare Limited, does not oppose the Motion. Motion 1. Petitioner concurrently applied for *pro hac vice* admission of Frank E. Scherkenbach in the following related proceedings: IPR2016-01716; IPR2016-01717; IPR2016-01719; IPR2016-01727; IPR2016-01729; IPR2016-01730; and IPR2016-01731 (along with IPR2016-01725, referred to as “the Proceedings”). *Id.* at 5. The Motion is *granted* in each of the Proceedings. *See* 37 C.F.R. § 42.10(c); *see also* IPR2013-00639, Paper 7 (setting forth requirements for *pro hac vice* admission).<sup>3</sup>

It is

ORDERED that the Motion seeking admission *pro hac vice* for Frank E. Scherkenbach is *granted* in proceedings IPR2016-01716, IPR2016-01717, IPR2016-01719, IPR2016-01725, IPR2016-01727, IPR2016-01729, IPR2016-01730, and IPR2016-01731.

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<sup>2</sup> Our citations to Papers and Exhibits will be to those filed in IPR2016-01725.

<sup>3</sup> Available at [http://www.uspto.gov/ip/boards/bpai/ptab\\_trials.jsp](http://www.uspto.gov/ip/boards/bpai/ptab_trials.jsp), “Representative Orders, Decisions, and Notices,” “Other Representative Orders and Decisions”).

IPR2016-01716 (Patent 8,550,072)	IPR2016-01717 (Patent 8,550,072)
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IPR2016-01730 (Patent 8,091,547)	IPR2016-01731 (Patent 8,091,547)

FURTHER ORDERED that Frank E. Scherkenbach may not act as lead counsel in any of the Proceedings;

FURTHER ORDERED that a registered practitioner must remain as lead counsel throughout each of the Proceedings;

FURTHER ORDERED that Frank E. Scherkenbach is to comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials, as set forth in Part 42 of the C.F.R.; and

FURTHER ORDERED that Frank E. Scherkenbach is to be subject to the Office's disciplinary jurisdiction under 37 C.F.R. § 11.19(a), and the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et. seq.*

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IPR2016-01729 (Patent 8,091,547)  
IPR2016-01731 (Patent 8,091,547)

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