

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

FISHER & PAYKEL HEALTHCARE LIMITED,
Patent Owner.

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)¹

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

WOODS, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

¹ As a similar oral argument request was 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)

Patent Owner and Petitioner each request oral argument for cases IPR2016-01716, IPR2016-01717, IPR2016-01719, IPR2016-01725, IPR2016-01727, IPR2016-01729, IPR2016-01730, IPR2016-01731 (collectively, “the Proceedings”).² Paper 20, 1; Paper 21, 1; Paper 20, 1 (IPR2016-01719). Petitioner requests 60 minutes for each side to present arguments collectively in all the Proceedings. Paper 21, 1. Patent Owner, on the other hand, requests 40 minutes for each side in IPR2016-01719 (Paper 20, 1 (IPR2016-01719)), and 60 minutes for each side in the other seven *inter partes* review proceedings (Paper 20, 1).

Having considered the similarities between the Proceedings, and Patent Owner’s request for IPR2016-01719, we allocate each party seventy five (75) minutes of total argument time for the eight cases. The parties may use their seventy five minutes to present their arguments as they see fit. The parties will meet and confer to agree as to how their arguments will be presented at the hearing, and will inform the panel prior to the start of the hearing.

Oral argument for the Proceedings will be heard together and will commence at 10:00 am Eastern Time on December 6, 2017, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. Petitioner will open the hearing by presenting its arguments. Patent Owner will then respond to Petitioner’s arguments. Petitioner may reserve time for

² Our citations to Papers and Exhibits will be to those filed in IPR2016-01725, unless indicated otherwise.

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IPR2016-01730 (Patent 8,091,547)	IPR2016-01731 (Patent 8,091,547)

rebuttal arguments. Patent Owner may not reserve rebuttal time. Petitioner bears the ultimate burden of proof that the claims at issue are unpatentable.

The Board will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing. The hearing will be open to the public via in-person attendance on a first-come, first-served basis.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least seven business days before the hearing and filed no later than the time of the hearing. The Board requests that such exhibits be filed at the Board at least five business days before the hearing to facilitate the panel's preparation. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041, Paper 65 (PTAB Jan. 27, 2014), for guidance regarding the appropriate content of demonstrative exhibits.

The parties must file any objections to the demonstratives with the Board at least two business days before the hearing. Any objection to demonstrative exhibits that is not timely presented will be considered waived. The objections should identify with particularity which demonstratives are subject to objection, and include a short (one sentence or less) statement of the reason for each objection. No argument or further explanation is permitted. The Board will consider the objections and schedule a conference if deemed necessary. Otherwise, the Board will reserve ruling on the objections until after the oral argument.

At least one member of the panel hearing this case will attend the hearing remotely, by video and audio link. The parties are reminded that,

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IPR2016-01730 (Patent 8,091,547)	IPR2016-01731 (Patent 8,091,547)

during the hearing, the presenter must identify clearly and specifically each demonstrative exhibit referenced (e.g., by slide or screen number) to ensure the clarity and accuracy of the reporter's transcript, and to ensure that the remote judge can follow the argument even if the video connection is disrupted. The parties are requested to speak directly into the microphone, including during initial introduction of counsel.

The Board expects lead counsel for each party to be present in person at the hearing. If a party anticipates that its lead counsel will not be attending the oral argument, the parties should initiate a joint telephone conference with the Board no later than two business days prior to the oral hearing to discuss the matter. Any counsel of record, however, may present the party's argument. A party's argument may be divided, but interruptions for change of counsel should be kept to a minimum.

Petitioner also "requests to use video equipment to display exhibits, including the use of a projector/screen for a PowerPoint display or the like." Paper 21, 1. Requests for special equipment will not be honored unless presented in a separate communication directed to Trials@uspto.gov not less than five days before the hearing. If the request is not received timely, the equipment may not be available on the day of the hearing.

Accordingly, it is

ORDERED that oral argument for this proceeding shall take place beginning at 10:00 am Eastern Time on December 6, 2017, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia.

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