EXHIBIT 2

From: Whitesell, Angela
Sent: Wednesday, February 15, 2023 5:28 PM
To: Wells, Benu C.; Hannah, James; Jonathan A. Choa; Kobialka, Lisa; Andre, Paul, J.; provner@potteranderson.com; Khokhar, Sabah; Layden, Timothy
Cc: Biggs, Brian; Braman, Nancy; Miller, Tiffany; Knudson, David; Cunningham, Sean
Subject: RE: CleveMed v. ResMed - Initial Invalidity Contentions
Attachments: CleveMed - Stipulation Scheduling Order Modification.docx

Benu,

ResMed will agree to CleveMed's proposal that there will not be a per-patent limit on the number of asserted claims or prior art references going forward. Please let us know if the attached stipulation is acceptable.

Thank you,
Angela

Angela C. Whitesell
Associate

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DLA Piper LLP (US)
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From: Wells, Benu C. <BWells@KRAMERLEVIN.com>
Sent: Tuesday, February 7, 2023 5:53 PM
To: Whitesell, Angela <Angela.Whitesell@us.dlapiper.com>; Hannah, James <JHannah@KRAMERLEVIN.com>; Jonathan A. Choa <jchoa@potteranderson.com>; Kobialka, Lisa <LKobialka@KRAMERLEVIN.com>; Andre, Paul, J. <PAndre@KRAMERLEVIN.com>; provner@potteranderson.com; Khokhar, Sabah <SKhokhar@KRAMERLEVIN.com>; Layden, Timothy <TLayden@KRAMERLEVIN.com>
Cc: Biggs, Brian <Brian.Biggs@us.dlapiper.com>; Braman, Nancy <Nancy.Braman@us.dlapiper.com>; Miller, Tiffany <tiffany.miller@us.dlapiper.com>; Knudson, David <david.knudson@us.dlapiper.com>; Cunningham, Sean <Sean.Cunningham@us.dlapiper.com>
Subject: RE: CleveMed v. ResMed - Initial Invalidity Contentions

⚠ EXTERNAL MESSAGE

Angela,

As an initial matter, the basis for your request to increase the per-patent limit on prior art references is incorrect, since CleveMed never limited its asserted claims to examples in its complaint. CleveMed made this clear in the language of the complaint itself (asserting that ResMed infringes "at least" the exemplary claims), as well as in its opposition to ResMed's motion to dismiss—which it filed *prior to* the parties' submission of the proposed scheduling order on September 26, 2022. See, e.g., Dkt. No. 20 (CleveMed's 8/29/22 opposition to the motion to dismiss) at 7 ("Claim 15 of the '269 Patent is cited in the Complaint merely as an exemplary claim, not as 'the only asserted claim of the '269 Patent'…"). Despite knowing this, ResMed successfully insisted on a per-patent limit for the parties' elections in the

scheduling order, while CleveMed had proposed no per-patent limit for the elections. As a result, CleveMed was held to a per-patent limit for its initial election of claims, while ResMed now seeks a one-sided increase in the number of references that it can initially elect for the '269 Patent. CleveMed cannot agree to ResMed's unfair and untimely request.

As a compromise, CleveMed proposes that the parties agree that there will be not be a per-patent limit on the number of asserted claims or prior art references for the parties' respective elections. We are available to discuss if helpful.

Thanks,
Benu

Benu C. Wells
Special Counsel
Pronouns: she/her/hers

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From: Whitesell, Angela <Angela.Whitesell@us.dlapiper.com>
Sent: Monday, February 6, 2023 1:03 PM
To: Wells, Benu C. <BWells@KRAMERLEVIN.com>; Hannah, James <JHannah@KRAMERLEVIN.com>; Jonathan A. Choa <jchoa@potteranderson.com>; Kobialka, Lisa <LKobialka@KRAMERLEVIN.com>; Andre, Paul, J. <PAndre@KRAMERLEVIN.com>; provner@potteranderson.com; Khokhar, Sabah <SKhokhar@KRAMERLEVIN.com>; Layden, Timothy <TLayden@KRAMERLEVIN.com>
Cc: Biggs, Brian <Brian.Biggs@us.dlapiper.com>; Braman, Nancy <Nancy.Braman@us.dlapiper.com>; Miller, Tiffany <tiffany.miller@us.dlapiper.com>; Knudson, David <david.knudson@us.dlapiper.com>; Cunningham, Sean <Sean.Cunningham@us.dlapiper.com>
Subject: [EXTERNAL] RE: CleveMed v. ResMed - Initial Invalidity Contentions

Benu,

Given that our invalidity contentions are due in two weeks (February 21) and the minimum time the Court will need to resolve any dispute, we will need CleveMed's position on whether or not it will agree to raise the per patent cap on the number of references for the '269 patent **by no later than close of business Tuesday (2/7)**.

If CleveMed either opposes or does not respond by COB Tuesday, please provide your availability to meet and confer **by no later than Thursday (2/9)**.

Best regards,
Angela

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From: Wells, Benu C. <BWells@KRAMERLEVIN.com>
Sent: Friday, February 3, 2023 3:36 PM
To: Whitesell, Angela <Angela.Whitesell@us.dlapiper.com>; Hannah, James <JHannah@KRAMERLEVIN.com>; Jonathan A. Choa <jchoa@potteranderson.com>; Kobialka, Lisa <LKobialka@KRAMERLEVIN.com>; Andre, Paul, J. <PAndre@KRAMERLEVIN.com>; provner@potteranderson.com; Khokhar, Sabah <SKhokhar@KRAMERLEVIN.com>; Layden, Timothy <TLayden@KRAMERLEVIN.com>
Cc: Biggs, Brian <Brian.Biggs@us.dlapiper.com>; Braman, Nancy <Nancy.Braman@us.dlapiper.com>; Miller, Tiffany <tiffany.miller@us.dlapiper.com>; Knudson, David <david.knudson@us.dlapiper.com>; Cunningham, Sean <Sean.Cunningham@us.dlapiper.com>
Subject: RE: CleveMed v. ResMed - Initial Invalidity Contentions

⚠ EXTERNAL MESSAGE

Angela,

We are considering your email and plan to get back to you by early next week.

Thanks,
Benu

Benu C. Wells
Special Counsel
Pronouns: she/her/hers

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From: Whitesell, Angela <Angela.Whitesell@us.dlapiper.com>
Sent: Thursday, February 2, 2023 5:34 PM
To: Wells, Benu C. <BWells@KRAMERLEVIN.com>; Hannah, James <JHannah@KRAMERLEVIN.com>; Jonathan A. Choa <jchoa@potteranderson.com>; Kobialka, Lisa <LKobialka@KRAMERLEVIN.com>; Andre, Paul, J. <PAndre@KRAMERLEVIN.com>; provner@potteranderson.com; Khokhar, Sabah <SKhokhar@KRAMERLEVIN.com>; Layden, Timothy <TLayden@KRAMERLEVIN.com>
Cc: DLA-ResMed-CleveMed <DLA-ResMed-CleveMed@us.dlapiper.com>
Subject: [EXTERNAL] CleveMed v. ResMed - Initial Invalidity Contentions

Counsel,

We write to request that CleveMed agree to raise the per patent limit on the number of prior art references ResMed can identify in its invalidity contentions for the '269 patent. The Court's scheduling order limits ResMed to 10 references per patent and 64 references total. The parties negotiated the scheduling order based on CleveMed's complaint, and

particularly, CleveMed's assertion of only a single claim of the '269 patent. However, in its infringement contentions, CleveMed asserted ten claims for the '269 patent. Four of the asserted claims are independent and are each directed to unique configurations and elements. For example, newly asserted independent claims 1 and 5 recite a pulse oximeter, and claim 1 recites a single processing module whereas claim 5 recites a data acquisition system—none of these individual features are recited in the claim identified in CleveMed's complaint (claim 15). As another example, newly asserted independent claim 8 recites treatment "with a pharmaceutical agent," a feature that is not present in any of the other independent claims. In addition, CleveMed has asserted a conception date that is earlier than and different from the priority date.

Given the high number of asserted independent claims for the '269 patent and their uniqueness, particularly in comparison to the only claim asserted in the complaint (claim 15), the possibility of two different invention dates, and the fact that invalidity based on obviousness allows for the combination of two or more references, ResMed finds that the 10 reference limit is insufficient to fairly present their initial invalidity contentions. Accordingly, ResMed requests that CleveMed stipulate that for the '269 patent, ResMed may identify up to 25 prior art references for its initial invalidity contentions. ResMed does not need to raise the 64 references total cap.

Please let us know by close of business Friday if CleveMed agrees or let us know your availability for a meet and confer early next week.

Thank you,
Angela

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Associate

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