

From: [Trials](#)
To: [Fuller, Jenna](#); [Heintz, James M.](#); [Trials](#)
Cc: [Price, Jeffrey H.](#); [Hannah, James](#); [Eng, Jeffrey](#); [Miller, Tiffany](#); [Sikorski, Ed](#)
Subject: RE: IPR2023-00565 (ResMed Corp. v. Cleveland Medical Devices, Inc.)
Date: Monday, November 27, 2023 2:03:57 PM
Attachments: [image001.png](#)

Counsel,

The panel is amenable to discussing the issues set out in the November 22, 2023 email communication from Petitioner.

A telephone conference is scheduled for **3 pm ET on November 28, 2023**. The dial-in number is: [REDACTED] and the passcode is: [REDACTED].

Regards,

Esther Goldschlager
Supervisory Paralegal Specialist
Patent Trial & Appeal Board
U.S. Patent & Trademark Office

From: Fuller, Jenna <JFuller@KRAMERLEVIN.com>
Sent: Wednesday, November 22, 2023 3:27 PM
To: Heintz, James M. <Jim.Heintz@us.dlapiper.com>; Trials <Trials@USPTO.GOV>
Cc: Price, Jeffrey H. <JPrice@KRAMERLEVIN.com>; Hannah, James <JHannah@KRAMERLEVIN.com>; Eng, Jeffrey <JEng@KRAMERLEVIN.com>; Miller, Tiffany <tiffany.miller@us.dlapiper.com>; Sikorski, Ed <Ed.Sikorski@us.dlapiper.com>
Subject: RE: IPR2023-00565 (ResMed Corp. v. Cleveland Medical Devices, Inc.)

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Your Honors,

Petitioner submitted the email below without meeting and conferring with CleveMed. Standard Operating Procedure 3 requires a teleconference with the Board to “propose a procedure on remand.” Here, however, the Director has provided the procedure on remand, as the Board’s order noted. See Paper 16 at 2 (noting that briefing is limited to “Judge Williams’ projected time-to-trial, and addressing any arguments based on case assignment”). Accordingly, CleveMed does not believe a conference call is necessary.

To the extent Petitioner is seeking to submit the Markman order to address other issues other than the time-to-trial, this is strictly prohibited as the Director specifically stated that the only issue to address is Judge Williams’ time-to-trial and no additional evidence was to be considered other than publicly available statistics. See Paper 15 at 5-6.

If the Board wishes to have a conference call, CleveMed is only available November 28, given the holiday and previously scheduled depositions.

Thank you,
Jenna
Counsel for Patent Owner

Jenna Fuller

Associate

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From: Heintz, James M. <Jim.Heintz@us.dlapiper.com>

Sent: Wednesday, November 22, 2023 11:02 AM

To: Trials <Trials@USPTO.GOV>

Cc: Price, Jeffrey H. <JPrice@KRAMERLEVIN.com>; Hannah, James <JHannah@KRAMERLEVIN.com>; Fuller, Jenna <JFuller@KRAMERLEVIN.com>; Eng, Jeffrey <JEng@KRAMERLEVIN.com>; Miller, Tiffany <tiffany.miller@us.dlapiper.com>; Sikorski, Ed <Ed.Sikorski@us.dlapiper.com>

Subject: [EXTERNAL] IPR2023-00565 (ResMed Corp. v. Cleveland Medical Devices, Inc.)

Dear Board,

Petitioner respectfully requests a conference call with the Board. This request is made pursuant to Standard Operating Procedure 3 as referenced in the Board's Order dated November 20, 2023 (Paper 16), and for the independent reason that Petitioner wishes to discuss the following two issues:

1. Authorization to file the district court's claim construction opinion as an exhibit in this proceeding
2. The Board's order dated November 20, 2023 (Paper 16)

In view of the due date for Petitioner's supplemental briefing, Petitioner respectfully requests that the call be scheduled for November 24th, November 27th or November 28th. Petitioner is available at any time on those days. Petitioner was not able to contact counsel for Patent Owner with respect to this request.

Sincerely,

James M. Heintz

Chair, Post Grant Review Practice

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