

From: [Trials](#)
To: [Brian Barnes](#); [Trials](#)
Cc: [Joshua Stowell](#); [Craig Summers](#); [Nathan Lowenstein](#); [Kenneth Weatherwax](#); [Will Katz](#)
Subject: RE: Edwards Lifesciences v. Aortic Innovations, Case No. IPR2023-01151 - Request for Conference Call
Date: Wednesday, November 15, 2023 10:27:06 AM

Counsel,

From the Board –

Petitioner’s request is granted with the modification below concerning due dates for the briefing.

- Deadline for Petitioner’s Preliminary Reply Brief: November 22, 2023
- Deadline for Patent Owner’s Preliminary Sur-Reply Brief: December 4, 2023

Regards,

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

From: Brian Barnes <Brian.Barnes@knobbe.com>
Sent: Tuesday, November 14, 2023 2:02 PM
To: Trials <Trials@USPTO.GOV>
Cc: Joshua Stowell <Joshua.Stowell@knobbe.com>; Craig Summers <Craig.Summers@knobbe.com>; Nathan Lowenstein <lowenstein@lowensteinweatherwax.com>; Kenneth Weatherwax <weatherwax@lowensteinweatherwax.com>; Will Katz <Katz@lowensteinweatherwax.com>
Subject: Edwards Lifesciences v. Aortic Innovations, Case No. IPR2023-01151 - Request for Conference Call

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Dear PTAB Trials,

Petitioner requests leave to file a 5-page reply brief to Patent Owner’s Preliminary Response pursuant to 37 CFR § 42.108(c) in the above-listed IPR. Petitioner seeks leave to respond to Patent Owner’s arguments regarding the “spacing” claim limitation and exhibits that were not available at the time the Petition was filed. In addition to the Reply, Petitioner seeks permission to submit with its Reply a copy of the Declaration of Dr. Stephen J.D. Brecker Regarding Claim Construction in the district court litigation No. 1-23-cv-00158 (Exhibit 1145), a copy of the deposition transcript of Dr. Stephen Brecker dated February 8, 2023 (Exhibit 1146), a copy of Aortic Innovations LLC’s Identification of Preliminary Claim Constructions and Evidence from Case No. 1-23-cv-00158 (Exhibit 1147), a copy of the May 17, 2022 Amendment submitted during prosecution of U.S. Patent App. No. 17/213,251 (Exhibit 1148), and a copy of the May 18, 2022 Amendment submitted during

prosecution of U.S. Patent App. No. 17/469,391 (Exhibit 1149).

Patent Owner does not oppose Petitioner's request provided it may file (i) a 5-page Sur-reply brief to Petitioner's Reply and (ii) up to five additional exhibits with its Sur-reply from among the following: the Expert Declaration of Dr. David Brookstein Regarding Claim Construction in the district court litigation No. 1-23-cv-00158, any other claim construction documents from district court litigation No. 1-23-cv-00158, prosecution history documents from the '834 patent or any related patents, and documents from any related IPR proceedings. Should Patent Owner wish to submit evidence outside of these categories as one of its five exhibits, the parties agree to meet and confer as to that evidence. Petitioner does not oppose Patent Owner's request for a Sur-reply or submission of additional evidence.

The parties jointly propose the following briefing schedule for the Board's consideration:

- Deadline for Petitioner's Preliminary Reply Brief: November 29, 2023
- Deadline for Patent Owner's Preliminary Sur-reply: December 8, 2023

The parties are available for a conference call if the Board deems it necessary, on Wednesday, November 15, 2023 from 2:30-5:00p.m. (ET); Friday, November 17, 2023 from 12.-2:30p.m. (ET); and Monday, November 20, 2023 from 12-1p.m. (ET) and 2p.m.-3:45p.m. (ET).

Patent Owner's counsel is CC'd on this email.

Best regards,
Brian Barnes

Brian Barnes

Associate

Brian.Barnes@knobbe.com

949-721-7643 Direct

Knobbe Martens

2040 Main St., 14th Fl.

Irvine, CA 92614

www.knobbe.com/brian-barnes

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