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On behalf of **Edwards Lifesciences Corporation and
Edwards Lifesciences LLC**

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

**EDWARDS LIFESCIENCES CORPORATION AND
EDWARDS LIFESCIENCES LLC**

Petitioners,

v.

AORTIC INNOVATIONS, LLC

Patent Owner.

IPR2024-00390

Patent No. 11,497,634

PETITIONER'S AUTHORIZED MOTION TO DISMISS

Pursuant to 37 C.F.R. § 42.72 and the Board’s April 4, 2024 email (Ex. 3001), Petitioners Edwards Lifesciences Corporation and Edwards Lifesciences LLC (“Petitioners”) hereby move to dismiss the petition for *inter partes* review of U.S. Patent No. 11,497,634 (“the ’634 patent IPR”) and terminate these proceedings prior to a determination as to whether to institute trial. Patent Owner, Aortic Innovations, LLC, does not oppose Petitioner’s Motion, and the Parties have not reached any “agreement or understanding ... made in connection with, or in contemplation of, the termination of a proceeding,” and, therefore, have no written document to submit to the Board. 37 C.F.R. ¶ 42.74(b).

Under 37 C.F.R. § 42.72, “[t]he Board may terminate a trial without rendering a final written decision, where appropriate.” Additionally, the Board may “grant, deny, or dismiss any petition or motion,” or enter an appropriate order. 37 C.F.R. § 42.71(a). The Board should exercise its discretion to dismiss the Petition and terminate the ’634 patent IPR for several reasons. First, this proceeding is in its preliminary stages and the Board has not yet entered an institution decision. Moreover, the deadline for Patent Owner to file a preliminary response to the Petition has not passed and the Board recently extended the deadline to allow additional time for the filing and consideration of this Motion. *See* Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response (Paper 3) (mailed on Jan. 19, 2024); Ex. 3001 (extending deadline for POPR).

Terminating the proceedings at this early stage would preserve both the Board's and parties' resources. The Board has found that the early stage of the proceeding and the preservation of Board and party resources weighs in favor of dismissal in similar circumstances. *See, e.g., Samsung Elecs. Co. v. NVIDIA Corp.*, IPR2015-01270, Paper 11 at 2-4 (P.T.A.B. Dec. 9, 2015) (granting motion to dismiss IPR proceedings prior to institution decision); *Regeneron Pharms., Inc. v. Novartis Pharm. AG*, IPR2020-01318, Paper 17 at 3 (P.T.A.B. Dec. 7, 2020) (granting unopposed motion to terminate IPR before institution decision).

Second, Petitioners were served with a complaint asserting infringement of the '634 patent in related district court litigation more than one year ago. Petitioner is, therefore, barred from filing another petition for *inter partes* review with respect to the '634 patent. *Samsung*, Paper 11 at 3 (citing 35 U.S.C. § 315(b)). Consequently, terminating the '634 patent IPR will not result in efficiencies from multiple IPRs involving the same patent. *See id.* at 3-4.

Accordingly, Petitioners respectfully request that the Board grant this Motion, dismiss the Petition, and terminate IPR2024-00390.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: April 11, 2024

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Attorneys for Petitioners
EDWARDS LIFESCIENCES CORP. AND
EDWARDS LIFESCIENCES LLC

CERTIFICATE OF COMPLIANCE

Pursuant to 37 C.F.R. §42.24(d), the undersigned certifies that the foregoing **PETITIONER’S AUTHORIZED MOTION TO DISMISS**, exclusive of the parts exempted as provided in 37 C.F.R. §42.24(a), contains 431 words and therefore complies with the type-volume limitations of 37 C.F.R. §42.24(a).

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: April 11, 2024

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **PETITIONER'S AUTHORIZED MOTION TO DISMISS** is being served via electronic mail pursuant to 37 C.F.R. § 42.6(e) and with the agreement of counsel for Patent Owner as address below:

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