IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ABBOTT DIABETES CARE INC.,
Petitioner,

v.

DEXCOM, INC.,
Patent Owner.

Case No. IPR2024-00891
Patent No. 11,020,031

PETITIONER'S REQUEST FOR REFUND OF POST-INSTITUTION FEE

Petitioner Abbott Diabetes Care Inc. ("Abbott") requests a refund of the *Inter Partes* Review post-institution fee in the amount of $25,500.00 to be paid to deposit account number DA603160, reference 031051.00162. As detailed below, although trial was instituted on December 16, 2024, the proceeding was terminated shortly thereafter, on January 23, 2025, in accordance with a settlement agreement, prior to commencement of substantive trial activity. Accordingly, a refund of post-institution fee is requested.

On May 10, 2024, Petitioner filed the above-captioned Petition for Inter Partes Review, which was assigned Case No. IPR2024-00891. In accordance with the current fee schedule and 37 C.F.R. § 42.15(a), the Petitioner paid $46,000.00 in fees at the time of filing, which included a $19,000.00 IPR request fee; $1,500.00 IPR request of each claim in excess of 20; $22,500.00 IPR post-institution fee; and $3,000.00 IPR post-institution request of each claim in excess of 20.

A trial was instituted for this proceeding on December 16, 2024, and a Scheduling Order was issued by the Board on December 23, 2024. Prior to the filing of Patent Owner's Response or the commencement of substantive trial activity, a Joint Motion to Terminate the Proceeding pursuant to 37 C.F.R § 42.72 was filed on January 14, 2025. On January 23, 2025, the Board

terminated the instant proceeding pursuant to the settlement. *See* Paper No. 13.

In light of the fact that no substantial trial activity occurred after the institution decision and prior to termination, Petitioner requests a refund of the post-institution fee in the amount of $25,500.00. Petitioner respectfully submits that the Board has refunded post-institution fees in similar situations, where the proceeding was terminated prior to commencement of substantive trial activity. *See NVIDIA v. Advanced Cluster Sys., Inc.*, IPR2021-00075, Paper No. 17 (July 12, 2021); *Globalfoundries Inc. v. UNM Rainforest Innovations*, IPR2020-00984, Paper No. 20 (Feb. 10, 2021); *Cree, Inc. v. Honeywell Int'l, Inc.*, IPR2015-00914, Paper No. 14 (Nov. 5, 2015).

It is requested that the refunded amount be credited to the deposit account number DA603160, reference 031051.00162.

Date: February 11, 2025

Respectfully submitted,

/Scott C. Weidenfeller/

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, I hereby certify that the foregoing Petitioner's Request for Refund was served by electronic mail on the following counsel of record for Patent Owner:

EHunt-PTAB@wolfgreenfield.com
RGiunta-PTAB@wolfgreenfield.com
GNieberg-PTAB@wolfgreenfield.com

Date: February 11, 2025

/Scott Weidenfeller/
Scott Weidenfeller (Reg. No. 54,531)