

From: [Trials](#)
To: [Chris Kelly](#); [Trials](#)
Cc: [Warren Thomas](#); [Gregory Carlin](#); ["Matthew Phillips"](#); ["Kevin Laurence"](#); ["Derek Meeker"](#); ["Joseph Hawkins"](#)
Subject: RE: Request for Relief in IPR2024-01209, -01210, -01211, -01212
Date: Friday, October 3, 2025 10:52:27 AM
Attachments: [image003.png](#)
[image004.png](#)

Counsel,

The Board intends to enforce Rule 42.23(b) and not consider any evidence submitted in violation of it. If PO wishes to file a short (no more than 3 pages) brief explaining that its Sur-Reply fully complies with the Rule, it may do so no later than October 17. If PO does file such a brief, PET may file a responsive brief (also no more than 3 pages) no later than October 31.

Regards,

Andrew Kellogg,
Deputy Chief Clerk, Trials
Patent Trial and Appeal Board
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From: Chris Kelly <ckelly@mcciplaw.com>
Sent: Thursday, October 2, 2025 3:34 PM
To: Trials <Trials@USPTO.GOV>
Cc: Warren Thomas <wthomas@mcciplaw.com>; Gregory Carlin <GCarlin@mcciplaw.com>; 'Matthew Phillips' <mphillips@lpiplaw.com>; 'Kevin Laurence' <klaurence@lpiplaw.com>; 'Derek Meeker' <dmeeker@lpiplaw.com>; 'Joseph Hawkins' <jhawkins@lpiplaw.com>
Subject: Request for Relief in IPR2024-01209, -01210, -01211, -01212

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Dear Board:

Petitioner Avanos Medical, Inc. writes to request relief relating to evidence and arguments filed with Patent Owner's Sur-Replies on September 26th. Petitioner requests that the Board strike and/or not consider the following exhibits and arguments, which it

believes are improper new evidence (other than deposition transcripts) submitted with the Sur-Replies: Exhibit 2044; Exhibit 2045; and the related Sur-Reply arguments at Pages 13 (lines 13-20) and 14 (lines 1-10) (identical portions in each proceeding). See 37 C.F.R. § 42.23(b); [Consolidated Trial Practice Guide](#) at 80-81 (Nov. 2019).

The parties have conferred, and Patent Owner opposes this request. Given the narrowness of this issue, the parties propose addressing any questions the Board has during the oral hearing scheduled for November 6th. Although the parties believe it is unnecessary, Petitioner is prepared to pursue the requested relief via a Motion to Strike at the Board's direction.

The parties do not request a conference call at this time but can be available at the Board's pleasure if necessary.

Best regards,

Chris Kelly
Lead Counsel for Petitioner Avanos Medical, Inc.

Chris Kelly

Principal

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