IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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PENUMBRA, INC.
Petitioner

v.

RAPIDPULSE, INC.
Patent Owner

_____

IPR2024-01261
U.S. Patent No. 11,406,402

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PETITIONER'S OBJECTIONS TO PATENT OWNER'S EVIDENCE

Submitted Electronically

Pursuant to 37 C.F.R. § 42.64(b)(1), Penumbra, Inc. ("Petitioner") objects under the Federal Rules of Evidence to the admissibility of the following evidence submitted by Patent Owner, RapidPulse, Inc. ("Patent Owner") filed with its Patent Owner's Preliminary Response on November 26, 2024. Petitioner files and serves Patent Owner with these objections to provide notice that Petitioner may move to exclude the following evidence under 37 C.F.R. § 42.64(c). These objections are made on March 7, 2025, within the time period required under 37 C.F.R. § 42.64(b)(1). Petitioner's objections apply equally to Patent Owner's reliance on this evidence in any subsequently filed documents or further proceedings in this matter. Notwithstanding these objections, Petitioner expressly reserves the right to rely on any evidence submitted by Patent Owner, including on the ground that such evidence constitutes a party admission.

I. Exhibits 2001-2013

Petitioner provisionally objects to Exhibits 2001-2013 under Rule 403 as irrelevant and unduly prejudicial, and pursuant to page 9 of the Scheduling Order (Paper 8) to the extent that these documents are not cited to and/or are irrelevant to the arguments actually raised in the Patent Owner Response eventually filed in this Proceeding, and to the extent they are relevant only to arguments that are waived in accordance with the Scheduling Order. Petitioner reserves the right to raise additional objections to these Exhibits after the Patent Owner Response is filed,

when Petitioner is better able to ascertain the relevance (if any) of these Exhibits to this Proceeding.

II. Exhibits 2012-2013

Petitioner objects to these exhibits as not properly authenticated under FRE 901 because Patent Owner has not presented sufficient evidence that the documents are authentic nor that the documents are self-authenticating under FRE 902.

To the extent Patent Owner relies on the contents of the these exhibits for the truth of the matter asserted, Petitioner objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

To the extent Patent Owner relies on the contents of these exhibits to prove the content of the original documents, Petitioner objects to these exhibits as not being an original document under FRE 1002, an authentic duplicate under FRE 1003, nor a document that falls under any excepts to the original-document requirement, including those of FRE 1004.

III. Exhibit 2001

Petitioner objects to Exhibit 2001, including, for example, Ex. 2001 ¶¶ 15, 25-29, 35-36, 38-116 as improper expert testimony under FRE 702 and 703, and 37 C.F.R. § 42.65, to the extent that each does not rely on the kind of facts or data experts in the relevant field would reasonably rely upon without providing the

underlying facts or data on which the opinion is based, because the testimony is not the product of reliable principles or methods, and because the testimony does not reflect a reliable application of appropriate principles and methods to the facts here. Petitioner further objects to these exhibits as improper lay testimony under FRE 701, to the extent each offers testimony outside of Mr. Culbert's area of expertise or fails to disclose the underlying facts or data on which the opinion is based. Petitioner further objects to these exhibits to the extent they rely on the hearsay objected to herein.

/Eliot D. Williams/
Eliot D. Williams (Reg. No. 50,822)
BAKER BOTTS L.L.P.

Date: March 7, 2025

CERTIFICATE OF SERVICE

In accordance with 37 C.F.R. §§ 42.6(e), the undersigned hereby certifies that on this day of March 7, 2025, a true and correct copy of the foregoing **PETITIONER'S OBJECTIONS TO PATENT OWNER'S EVIDENCE**, were served to Patent Owner via electronic mail to:

Charles H. Sanders
B. Thomas Watson
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thomas.watson@lw.com

BAKER BOTTS L.L.P.

/Eliot D. Williams/
Eliot D. Williams (Reg. No. 50,822)
Lead Attorney for Petitioner

Date: March 7, 2025