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Cc: [Trials](#)
Subject: RE: IPR2024-01261 - Patent Owner's Request to File Exhibit
Date: Thursday, August 14, 2025 11:46:15 AM

Counsel,

The Board grants Patent Owner's request to file an Unopposed Motion to Submit Supplemental Information under 37 CFR § 42.123(b) requesting authorization to file the European opposition as an exhibit.

Regards,

Tina Williams
Supervisory Paralegal Specialist
Patent Trial and Appeal Board

From: Raghav.Bajaj@lw.com <Raghav.Bajaj@lw.com>
Sent: Wednesday, August 13, 2025 5:33 PM
To: Trials <Trials@USPTO.GOV>
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Subject: IPR2024-01261 - Patent Owner's Request to File Exhibit

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Dear Honorable Board,

Patent Owner RapidPulse, Inc. requests authorization to file, as an exhibit, an opposition filed in the European Patent Office by Petitioner Penumbra, Inc. against Patent Owner's European Patent EP 3823686, which is related to the patent in this proceeding.

Patent Owner and Petitioner have conferred. Petitioner disagrees with the argumentative characterizations made in this request, but does not oppose Patent Owner's request for authorization to submit the EP Opposition as an Exhibit in this proceeding.

Patent Owner is mindful of the Board's guidance against including attachments in emails and therefore does not attach the opposition but can provide it at the Board's request. The opposition is also available at the EP Register website under EP 3823686.

To the extent a motion to submit supplemental information under 37 CFR § 42.123(b) is required, Patent Owner respectfully requests authorization to file a motion to submit supplemental information, as both requirements of 37 CFR § 42.123(b) are met here.

Petitioner's opposition was filed July 29, 2025, and received by Patent Owner last week. It

1.

could not have been obtained earlier. See 37 CFR § 42.123(b).

2. Consideration of the opposition would be in the interests-of-justice (see 37 CFR § 42.123(b)) for at least the following reasons:

- a. EP 3823686 and U.S. Patent No. 11,406,402 at issue in this IPR claim priority to the same PCT application, PCT/US2019/042546. See EP 3823686, field (86); Ex. 1001, field (63).
- b. The EPO opposition relies upon US 2017/0238953 to Yang, WO 2017/214573 to Ofek, and WO 2019/115809 to Mullins, among other references. In this IPR, Petitioner's grounds rely upon the same Yang reference (Ex. 1012), and the U.S. Patent equivalents of Ofek (Ex. 1007) and Mullins (Ex. 1008). See Pet. 9.
- c. Petitioner's arguments about these references in the opposition contradict its arguments in the Petition with respect to the claim limitation "control fluid flow in and out from the distal end of the catheter":

Reference	IPR Petition	EPO Opposition
Yang	"Yang discusses controlling fluid flow ... out from the distal end of the catheter" such that a "POSA would have understood [Yang's reciprocation] would cause fluid to move partially in and out at the distal end. " Pet. 33 (emphasis added); <i>see also id.</i> 42-43 (arguing Yang/Mullins teaches positive amounts of exit flow).	"Operating an arrangement as described by [Yang] would naturally result in the prevention of forward flow.... " EPO Opposition, 52 (emphasis added); <i>see also id.</i> , 53 ("the skilled reader would appreciate that the teaching of [Yang] is that forward flow is prevented.").
Ofek	"A POSA would recognize and find obvious ... that Ofek's system may result in controlled flow of fluid and/or clot out from the distal end of the catheter. " Pet. 85 (emphasis added); <i>see also id.</i> 91 (arguing Ofek/Mullins teaches positive amounts of exit flow).	"The system of [Ofek] is therefore operated so as to prevent forward flow of fluid out of the distal end of the catheter. " EPO Opposition, 63 (emphasis added).
Mullins	"Mullins's controller uses positive/negative pressure A POSA would understand that the cyclical application of positive/negative pressure to the catheter would control fluid flow in and out from the distal end. " Pet. 34 (emphasis added); <i>see also id.</i> 42-43 (arguing Yang/Mullins teaches positive amounts of exit flow).	"Mullins ... explicitly teaches ... preventing forward flow to reduce the risk of distal embolization." EPO Opposition, 114 (emphasis added); <i>see also id.</i> , 116 ("skilled person would therefore be motivated to operate a clot removal system with no forward flow ... in the manner described by [Mullins]....").

The Board has held that a party's "representations to the EPO are relevant to determine how an ordinarily skilled artisan would understand" a prior art reference, and thus Petitioner's representations to the EPO regarding the same references at issue here are likewise relevant to the

Board's evaluation of the parties' arguments. *Guardant Health, Inc. v. Univ. of Washington*, IPR2022-00450, Paper 13 at 11 (PTAB Aug. 1, 2022) (citing *inter alia Tanabe Seiyaku Co. v. U.S. Int'l Trade Comm'n*, 109 F.3d 726, 733 (Fed. Cir. 1997) (stating that "representations made to foreign patent offices are relevant to whether a person skilled in the art would consider [chemicals] to be interchangeable"). Additionally, entry of the opposition into the record now will permit Petitioner to address the opposition in its Reply, and Patent Owner to address the opposition in its Sur-Reply. For at least these reasons, submission of the opposition now is in the interests-of-justice.

The parties are available for a conference call to discuss this issue at the following times:

- 8/14 – 12:00 PM – 5:00 PM Eastern
- 8/15 – 12:00 PM – 1:00 PM Eastern
- 8/18 – 1:30 PM – 4:00 PM Eastern

Best regards,

Raghav Bajaj
Counsel for Patent Owner

Raghav Bajaj

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