Filed on behalf of: RapidPulse, Inc.

Entered: August 18, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PENUMBRA, INC.,
Petitioner,

v.

RAPIDPULSE, INC.,
Patent Owner.

Case IPR2024-01261
Patent 11,406,402

PATENT OWNER'S UNOPPOSED MOTION TO SUBMIT SUPPLEMENTAL INFORMATION UNDER 37 CFR § 42.123(B)

Exhibit	Description
2001	Declaration of Brad Culbert in Support of Patent Owner's Preliminary Response (Nov. 22, 2024) ("Culbert Decl.")
2002	*Curriculum Vitae* of Brad Culbert
2003	Declaration of Brian Brown in Support of Petition for Inter Partes Review of U.S. Patent No. 10,531,883, *Penumbra, Inc. v. RapidPulse, Inc.*, IPR2021-01466, Ex. 1005 (P.T.A.B. Aug. 30, 2021) ("'883 Brown Decl.")
2004	Declaration of Ian Ross, MD in Support of Petition for Inter Partes Review of U.S. Patent No. 10,531,883, *Penumbra, Inc. v. RapidPulse, Inc.*, IPR2021-01466, Ex. 1023 (P.T.A.B. Aug. 30, 2021) ("'883 Ross Decl.")
2005	Supplemental Declaration of Brian Brown for Inter Partes Review of U.S. Patent No. 10,531,883, *Penumbra, Inc. v. RapidPulse, Inc.*, IPR2021-01466, Ex. 1030 (P.T.A.B. Oct. 3, 2022) ("'883 Brown Suppl. Decl.")
2006	Transcript of the Remote Videoconferenced Deposition of Ian Beaudoin Ross, MD, taken June 24, 2022, *Penumbra, Inc. v. RapidPulse, Inc.*, IPR2021-01466, Ex. 2016 (P.T.A.B. July 11, 2022) ("'883 Ross Dep. Tr.")
2007	Judgment: Final Written Decision, *Penumbra, Inc. v. RapidPulse, Inc.*, IPR2021-01466, Paper 34 (P.T.A.B. Mar. 10, 2023) ("'883 FWD")
2008	Declaration of Brian Brown in Support of Petition for Inter Partes Review of U.S. Patent No. 10,722,253, *Penumbra, Inc. v. RapidPulse, Inc.*, IPR2022-00608, Ex. 1005 (P.T.A.B. Feb. 15, 2022) ("'253 Brown Decl.")
2009	Declaration of Ian Ross, MD in Support of Petition for *Inter Partes* Review of U.S. Patent No. 10,722,253, *Penumbra, Inc. v. RapidPulse, Inc.*, IPR2022-00608, Ex. 1023 (P.T.A.B. Feb. 15, 2022) ("'253 Ross Decl.")

Exhibit	Description
2010	Transcript of the Remote Videoconference Deposition of Brian Brown, Vol. 2, taken May 22, 2023, *Penumbra, Inc. v. RapidPulse, Inc.*, IPR2022-00608, Ex. 2018 (P.T.A.B. May 26, 2023) ("'253 Brown Dep. Tr.")
2011	Judgment: Final Written Decision, *Penumbra, Inc. v. RapidPulse, Inc.*, IPR2022-00608, Paper 34 (P.T.A.B. Sept. 6, 2023) ("'253 FWD")
2012	Sudheer Gorla et al., *The Role of Interventional Cardiology in the Management of Thrombotic Conditions in the Pediatric Population* in CARDIOVASCULAR THROMBUS: FROM PATHOLOGY & CLINICAL PRESENTATIONS TO IMAGING, PHARMACOTHERAPY & INTERVENTIONS 565–575 (2018)
2013	*Patency*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary/patency (last visited Nov. 22, 2024)
2014	Declaration of Brad Culbert in Support of Patent Owner's Response (May 30, 2025) ("Culbert POR-Decl.")
2015	U.S. Patent Application Publication No. US 2016/0220741 A1 ("Garrison")
2016	Transcript of the Remote Videoconference Deposition of Brian Brown (Vol. 1), taken December 9, 2022, *Penumbra, Inc. v. RapidPulse, Inc.*, IPR2022-00608, Ex. 2016 (P.T.A.B. Jan. 6, 2023) ("IPR2022-00608, Ex. 2016")
2017	Transcript of the Remote Videoconference Deposition of Ian Ross, MD, No. IPR2024-01261, *Penumbra, Inc. v. RapidPulse, Inc.*, taken May 16, 2025 ("Ross Dep.")
2018	Transcript of the Remote Videoconference Deposition of Brian J. Brown, No. IPR2024-01261, *Penumbra, Inc. v. RapidPulse, Inc.*, taken May 9, 2025 ("Brown Dep.")

Exhibit	Description
2019	Errata and signed Acknowledgment from Transcript of the Remote Videoconference Deposition of Brian J. Brown, No. IPR2024-01261, *Penumbra, Inc. v. RapidPulse, Inc.*, taken May 9, 2025
2020	NEW OXFORD AMERICAN DICTIONARY (3rd ed. 2010) (EXCERPT)
2021	Patrick A. Brouwer, MD et al., *Clot Pathophysiology: Why is It Clinically Important?*, 28 NEUROIMAGING CLINICAL N. AM. 611-623 (2018) ("Brouwer 2018")
2022	Decision Granting Institution of *Inter Partes* Review, No. IPR2021-01466, *Penumbra, Inc. v. RapidPulse, Inc.*, dated March 14, 2022
2023	Decision Granting Institution of *Inter Partes* Review, No. IPR2022-00608, *Penumbra, Inc. v. RapidPulse, Inc.*, dated September 9, 2022
2024	Transcript of the Remote Videoconference Deposition of Brian Brown, taken June 15, 2022 *Penumbra, Inc. v. RapidPulse, Inc.*, No. IPR2021-1466, Ex. 2013 (P.T.A.B. July 11, 2022) ("IPR2021-01466, Ex. 2013")
2025	Osama O. Zaidat, MD et al., *First Pass Effect – A New Measure for Stroke Thrombectomy Devices*, 49 STROKE 660-666 (2018) ("First Pass Effect")
2026	Gyula Gal et al., *Improved LVO First-Pass Effect With Precise Cyclic Aspiration: Early Experience with the RapidPulse™ System*, 14 (Suppl.) J. NEUROINTERVENTIONAL SURGERY A40-A41 (2022)
2027	Arsida Bajrami et al., *RapidPulse™ Cyclic Aspiration System for Acute Ischemic Stroke Due to Large Vessel Occlusions*, 22 INTERVENTIONAL NEURORADIOLOGY (2024)

Exhibit	Description
2028	Raul Nogueira, MD et al., *Data Presented at SVIN 2024*, RapidPulse™ (2024)
2029	RESERVED
2030	RESERVED
2031	*Duplex Fuel Selectors*, ANDAIR PRODUCTS, https://www.andair.co.uk/category/duplex-fuel-selectors/ (last visited May 28, 2025)
2032	*Solenoid Valves*, CANNON WATER TECHNOLOGY INC., https://cannonwater.com/pipe-valves-and-fittings/solenoid-valves/?srsltid=AfmBOoqfhXocs7qr7O-snnaGmL5GabfvVdzYEeD8shLCAPXabAn6YSf (last visited May 28, 2025)
2033	Brian Booth, *V-Port Ball Valves vs. Globe*, VALVE WORLD AMERICAS (2018)
2034	Declaration of Charles H. Sanders In Response to Petitioner's Objections to Evidence [*served, not filed*]
2035	European Opposition filed July 29, 2025 against EP 3823686 (excerpts)

Pursuant to the Board's authorization provided by email (Ex. 3001), Patent Owner RapidPulse, Inc. ("Patent Owner") moves to submit as supplemental information Exhibit 2035, the Opposition filed by Petitioner Penumbra, Inc. ("Petitioner") in the European Patent Office ("the European Opposition"),[1] which opposes European Patent No. 3823686, owned by Patent Owner. As stated in the email to the Board (Ex. 3001), Petitioner does not oppose this motion.

37 C.F.R. § 42.123(b) states that a "motion to submit supplemental information must show why the supplemental information reasonably could not have been obtained earlier, and that consideration of the supplemental information would be in the interests-of-justice." As detailed in Patent Owner's email request (Ex. 3001), the instant motion satisfies both requirements.

First, Exhibit 2035 reasonably could not have been obtained earlier, because it was filed with the European Patent Office on July 29, 2025. *See* Ex. 2035, 1.

Second, consideration of this supplemental information is in the interests-of-justice for the following reasons:

1. The opposed European Patent, EP 3823686, and U.S. Patent No. 11,406,402 (Ex. 1001, the "'402 patent" challenged in this proceeding), both claim

[1] The exhibits to the Opposition have been excerpted to include only those relevant to this IPR proceeding, to avoid a voluminous filing.

priority to the same priority applications. *See, e.g.*, Ex. 1001, field (63) (identifying U.S. Application No. 16/516,232), field (60) (identifying U.S. Provisional Application Nos. 62/701,086 and 62/750,011); Ex. 2035, p. 2 (identifying the same applications as priority applications for EP 3823686).

2. The European Opposition relies on US 2017/0238953 to Yang (Document O2), WO 2017/214573 to Ofek (Document O3), and WO 2019/115809 to Mullins (Document O10), among other references. *See, e.g.*, Ex. 2035, p. 2. Petitioner's grounds in this IPR (*see* Pet. 9) rely upon:

a. the same Yang reference (*compare, e.g.*, Ex. 1012, p. 1 *with* Ex. 2035, p. 166);

b. the U.S. Patent equivalent of the European Opposition's Ofek document (*compare, e.g.*, Ex. 1007, field (60) *with* Ex. 2035, p. 236, field (30), both identifying U.S. Provisional Application No. 62/348,082); and

c. the U.S. Patent equivalent of the European Opposition's Mullins document (*compare, e.g.*, Ex. 1008, field (63) *with* Ex. 2035, p. 262, field (21), both identifying PCT/EP2018/085064).

3. Petitioner's arguments about the teachings of Yang, Ofek, and Mullins in the European Opposition contradict its arguments in the Petition with respect to the '402 patent's claim limitation "control fluid flow in and out from the distal end of the catheter" (referred to as limitation [1-G], *see* Pet. 3):

Reference	Petition	European 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); *see also id.* 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**…." Ex. 2035, p. 52 (emphasis added); *see also id.*, p. 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); *see also id.* 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**." Ex. 2035, p. 64 (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); *see also id.* 42-43 (arguing Yang/Mullins teaches positive amounts of exit flow).	"Mullins … explicitly teaches … **preventing forward flow** to reduce the risk of distal embolization." Ex. 2035, p. 114 (emphasis added); *see also id.*, 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 European Patent Office 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 European Opposition into the record now will permit Petitioner to address the opposition in its Reply, and Patent Owner to address the European Opposition in its Sur-Reply.

For at least the reasons detailed above, submission of the European Opposition now is in the interests-of-justice, and Patent Owner respectfully requests that this Motion be granted.

Respectfully submitted,

Dated: August 18, 2025

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on this 18th day of August, 2025, a true and correct copy of the foregoing **Patent Owner's Unopposed Motion to Submit Supplemental Information Under 37 CFR § 42.123(b) and Exhibit 2035** were served by electronic mail on Petitioner's lead and backup counsel at the following email addresses:

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