

Filed: July 16, 2025

Filed on behalf of Resmed Corp.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RESMED CORP.,
Petitioner

v.

CLEVEMED MEDICAL DEVICES, INC.,
Patent Owner

IPR2025-00157
U.S. Patent No. 11,602,284

**PETITIONER'S REQUEST TO WAIVE 30-DAY PERIOD TO FILE
REQUEST FOR DIRECTOR REVIEW**

Pursuant to 37 C.F.R. § 42.5(b), Petitioner Resmed Corp. (“Resmed”) respectfully requests the Board waive the 30-day period to request Director Review under 37 C.F.R. § 42.71(d).

On June 10, 2025, the Board issued its Decision on Institution (“DI”) exercising its discretion to deny the instant Petition under *General Plastic* based on Resmed’s previously-denied petition for post-grant review. Paper 10. Under 37 C.F.R. § 42.71(d), the deadline for Resmed to file a request for Director Review was July 10, 2025. Resmed chose not to file a request.

However, on July 11, 2025, the day after the deadline, the Director issued her decision in *LifeVac, LLC v. DCSTAR Inc.*, IPR2025-00454, Paper 11 (July 11, 2025). Notably, the decision states “petitions for *inter partes* review will generally not be discretionarily denied because of an earlier petition for post-grant review when the post-grant review was not instituted.” *Id.*, 2. Accordingly, the Board’s DI here directly conflicts with the Director’s decision in *LifeVac*.

Good cause exists to waive the 30-day period to request Director Review. *First*, Resmed’s Request for Director Review is filed 3 business days after the *LifeVac* decision issued and 4 business days after the 30-day period to request Director Review. Thus, Resmed was diligent in submitting this request to waive and the request for Director Review.

Second, waiver would promote predictability by ensuring that all the patents asserted in the parallel litigation are subject to the same rules and guidance. The instant Petition is the first of six petitions filed within weeks of each other on the patents asserted in the parallel litigation. Three petitions have been instituted—IPR2025-00158, -00159, -00160—and the Director has referred the remaining two—IPR2025-00246, -00247—to the Board for consideration on the merits. The Director's guidance should apply to all six petitions.

Third, waiver would promote efficiency and consistency. The challenged patent is related to four of the other patents asserted in the parallel litigation and challenged in co-pending IPRs. The patents share many of the same limitations and the corresponding petitions share the same asserted prior art. If the district court and the Board address these shared limitations, this could lead to inconsistent results. Accordingly, it is an efficient use of the Board's resources to address the patentability of the related patents together.

Last, there is no prejudice to Patent Owner. The parallel litigation in the Northern District of Ohio is stayed pending the resolution of the IPRs, and will remain stayed at least pending IPR2025-00158, -00159, and -00160. Thus, Patent Owner has taken no action in reliance of the DI, nor will it given the stay.

Dated: July 16, 2025

Respectfully submitted,

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RESMED CORP.

CERTIFICATE OF SERVICE

I hereby certify that on July 16, 2025, a true and correct copy of the foregoing
**PETITIONER'S REQUEST TO WAIVE 30-DAY PERIOD TO FILE
REQUEST FOR DIRECTOR REVIEW** is being served by electronic mail on
Patent Owner's counsel of record listed below, pursuant to its Mandatory Notices:

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