

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RESMED CORP.,
Petitioner,

v.

CLEVELAND MEDICAL DEVICES, INC.,
Patent Owner.

Case IPR2025-00158
U.S. Patent No. 11,690,512

**PATENT OWNER'S OBJECTIONS TO EVIDENCE
UNDER 37 C.F.R. § 42.64**

Patent Owner Cleveland Medical Devices, Inc. (“CleveMed” or “Patent Owner”) objects under the Federal Rules of Evidence and 37 C.F.R. § 42.64(b)(1) to the admissibility of the following documents submitted by Petitioner ResMed Corp. (“ResMed” or “Petitioner”) in its Petition for *Inter Partes* Review. See Paper No. 1. Trial was instituted on June 13, 2025. See Paper No. 11. Thus, Patent Owner’s objections are timely under 37 C.F.R. § 42.64(b)(1). Patent Owner serves Petitioner with these objections to provide notice that Patent Owner will move to exclude the above-identified exhibits as improper evidence.

I. PETITIONER’S EVIDENCE

A. Objections to the Declaration of Dr. Jason Kirkness (Ex. 1003, the “Kirkness Declaration”)

Patent Owner objects to the Kirkness Declaration under Federal Rules of Evidence (“FRE”) 802 as inadmissible hearsay if Petitioner does not make Dr. Kirkness available for deposition in this proceeding.

B. Objections to the Declaration of Dr. Sandeep Chatterjee (Ex. 1005, the “Chatterjee Declaration”)

Patent Owner objects to the Chatterjee Declaration under FRE 802 as inadmissible hearsay if Petitioner does not make Dr. Chatterjee available for deposition in this proceeding.

C. Various Exhibits and Publications

Patent Owner objects to the admissibility of the following exhibits for at least the following reasons:

Exhibit No.	Description
Ex. 1017	Specification of the Bluetooth System, Bluetooth, v1.0 B (Dec. 1, 1999)
Ex. 1029	Research Challenges in Wireless Networks of Biomedical Sensors, L. Schwiebert (2001), accessed at https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=200613bf402b54be0179483813f7f98a5ae053ef .
Ex. 1040	A. Silberschatz, "Operating System Concepts" (1994) ("Silberschatz 1994")
Ex. 1046	S. Thompson et al., "Sleep as a Teaching Tool for Integrating Physiology and Motor Control," <i>Advances in Physiology Education</i> (2001) ("Thompson 2001")
Ex. 1049	C.W. Lillebei et al., "Transistor Pacemaker for Treatment of Complete Atrioventricular Dissociation," <i>JAMA</i> , 172(18): 2006 - 2010 (1960) ("Lillehei 1960")
Ex. 1050	D. Rapoport, "Methods to Stabilize the Upper Airway Using Positive Pressure," <i>Sleep</i> 19(9): S123-S130 (1996) ("Rapoport 1996")
Ex. 1051	NASA, "Applications of Aerospace Technology in Biomedicine, Patient Monitoring" (1971) (NASA 1971)
Ex. 1052	M. Weil, et al., "Experience With a Digital Computer for Study and Improved Management of the Critically Ill," <i>JAMA</i> , 198:1011 - 1016 (1966) ("Weil 1966")
Ex. 1053	L. Clark et al., "Electrode Systems for Continuous Monitoring in Cardiovascular Surgery," 29-45 (1962) ("Clark & Lyons 1962")
Ex. 1054	H. Kennedy et al., "Ambulatory (Holter) Electrocardiography Using Real-Time Analysis," 1190-1195 (1987) ("Kennedy 1987")
Ex. 1055	S. Wilber, et. al., "Patient Monitoring and Anesthetic Management: A Physiological Communications Network," <i>JAMA</i> , 191:893-898 (1965) ("Wilber 1965")

Exhibit No.	Description
Ex. 1056	C. Lilly, et. al., "Critical Care Telemedicine: Evolution and State of the Art," Critical Care Medicine, 42:2429-2436 (2014) ("Lilly 2014")
Ex. 1057	M. Breslow, et. al., "Effect of a multiple-site intensive care unit telemedicine program on clinical and economic outcomes: An alternative paradigm for intensivist staffing," Critical Care Medicine, 32:31-38 (2004) ("Breslow 2004")
Ex. 1058	K. Zundel, "Telemedicine: history, applications, and impact on librarianship," Bull Med Libr. Assoc., 84:71-79 (1996) ("Zundel 1996")
Ex. 1059	Loube, D., "Technologic Advances in the Treatment of Obstructive Sleep Apnea Syndrome," CHEST, 116:1426-1433 (1999) ("Loube 1999")
Ex. 1060	A. Boudewyns, et. al., "Two months follow up of auto-CPAP treatment in patients with obstructive sleep apnoea," Thorax, 54:147-149 (1999) ("Thorax 1060")
Ex. 1061	D. Lankford, "Wireless CPAP Patient Monitoring: Accuracy Study," Telemedicine Journal and e-Health, 10:162-169 (2004) ("Lankford 2004")
Ex. 1062	D. Claremont et al., "Biosensors for Continuous in Vivo Glucose Sensors", IEEE Engineering In Medicine & Biology Society 10th Annual International Conference, 740-741 (1988) ("Claremont 1988")
Ex. 1063	A. Berssenbrugge et al., "Mechanisms of Hypoxia-Induced Periodic Breathing During Sleep In Humans," 343: 507-524 ("Berssenbrugge 1983")
Ex. 1064	H. Colten, "Sleep Disorders and Sleep Deprivation: An Unmet Public Health Problem", https://docs.wind-watch.org/Sleep-Disorders-Sleep-Deprivation.pdf (2006) ("Colten 2006")

Exhibit No.	Description
Ex. 1065	W. Flemons, "Home Diagnosis of Sleep Apnea: A Systematic Review of the Literature" CHEST, 124:1543-1579 (2003), ("Flemons 2003")
Ex. 1066	R. Stoohs et al., MESAM 4: "An Ambulatory Device for the Detection of Patients at Risk for Obstructive Sleep Apnea Syndrome (OSAS)", CHEST 101(5): 1221-27 (1992) (Stoohs & Guilleminault, 1992)
Ex. 1067	K. Rebrin et al., "Subcutaneous glucose predicts plasma glucose independent of insulin: implications for continuous monitoring," 561-571 ("Rebrin 1999")
Ex. 1068	C. George, "Diagnostic Technologies in Obstructive Sleep Apnea," 355-366 (199) ("George 1999")
Ex. 1069	N. Keijsers, "Online Monitoring of Dyskinesia in Patients with Parkinson's Disease," 93-103 (May/June 2003) (Keijsers 2003)
Ex. 1073	D. Gourley, et. al., HTTP The Definitive Guide (2002)
Ex. 1074	D. Mauro, et. al., Essential SNMP (2001)
Ex. 1075	F. Adelstein, et. al., Fundamentals of Mobile and Pervasive Computing (2005)

Petitioner has failed to authenticate Exhibits 1017, 1029, 1040, 1046, 1049-1069, and 1073-1075 under FRE 901 and FRE 602. Specifically, Petitioner has failed to establish that Exhibits 1017, 1029, 1040, 1046, 1049-1069, and 1073-1075 are what Petitioner claims they are, and has failed to authenticate Exhibits 1017, 1029, 1040, 1046, 1049-1069, and 1073-1075.

To the extent that Petitioner attempts to rely on any date that appears on Exhibits 1017, 1029, 1040, 1046, 1049-1069, and 1073-1075 to establish public accessibility of Exhibits 1017, 1029, 1040, 1046, 1049-1069, and 1073-1075 as a printed publication or prior art reference, the date is hearsay under FRE 801 and does not fall within a hearsay exception under FRE 802 and FRE 803. Further, the dates in Exhibits 1017, 1029, 1040, 1046, 1049-1069, and 1073-1075 have not been authenticated and are inadmissible under FRE 901.

Exhibits 1046, 1049-1063, 1066-1069, and 1073-1075 are not relevant under FRE 401 because Petitioner did not rely on Exhibits 1046, 1049-1063, 1066-1069, and 1073-1075 in its Petition, and therefore are inadmissible under FRE 402. Additionally, Exhibit 1073 is not relevant under FRE 401 and inadmissible under FRE 402. Exhibits 1049- 1050, 1052-1063, and 1065-1069 are incomplete and thus confusing, of minimal probative value, outweighed by prejudice, and/or a waste of time and therefore inadmissible under FRE 403.

Patent Owner's Objections to Evidence
IPR2025-00158 (U.S. Patent No. 11,690,512)

Respectfully submitted,

Dated: June 27, 2025

/James Hannah/

James Hannah (Reg. No. 56,369)
Herbert Smith Freehills Kramer (US) LLP
333 Twin Dolphin Drive, Suite 700
Redwood Shores, CA 94065
Telephone: (650) 752-1700
Facsimile: (650) 752-1800
James.Hannah@hsfkramer.com

Jeffrey H. Price (Reg. No. 69,141)
Jenna Fuller (Reg. No. 74,212)
Jeffrey Eng (Reg. No. 63,189)
Herbert Smith Freehills Kramer (US) LLP
1177 Avenue of the Americas
New York, NY 10036
Telephone: (212) 715-7502
Facsimile: (212) 715-8302
Jeffrey.Price@hsfkramer.com
Jenna.Fuller@hsfkramer.com
Jeffrey.Eng@hsfkramer.com

(Case No. IPR2025-00158)

Attorneys for Patent Owner
Cleveland Medical Devices Inc.

CERTIFICATE OF SERVICE

The undersigned certifies, in accordance with 37 C.F.R. § 42.6(e), and pursuant to agreement by the parties that filing with the Board through the P-TACTS constitutes electronic service, if Patent Owner provides the foregoing document (excluding exhibits), service was made on the Petitioner as detailed below.

<i>Date of service</i>	June 27, 2025
<i>Manner of service</i>	Electronic Filing and Electronic Mail (PH-ResMed-CleveMed@paulhastings.com)
<i>Documents served</i>	PATENT OWNER'S OBJECTIONS TO EVIDENCE UNDER 37 C.F.R. § 42.64
<i>Persons Served</i>	Paul Hastings LLP Lisa K. Nguyen David M. Tennant Grace Wang Kevin Stewart

/James Hannah/
James Hannah
Registration No. 56,369
Lead Counsel for Patent Owner