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Paper 16
Date: August 26, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EMBODY, INC. and ZIMMER BIOMET HOLDINGS, INC.,

Petitioner.

v.

LIFENET HEALTH,
Patent Owner.

IPR2025-00248 (Patent 10,137,223 B2)
IPR2025-00249 (Patent 11,318,227 B2)

Before SHERIDEN K. SNEDDEN, CHRISTOPHER G. PAULRAJ, and CHRISTOPHER C. KENNEDY, *Administrative Patent Judges.*

PAULRAJ, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
Authorizing Motion for Additional Discovery
37 C.F.R. §§ 42.5, 42.51(b)(2)

On August 5, 2025, we instituted *inter partes* reviews in these proceedings involving Embody, Inc. and Zimmer Biomet Holdings, Inc. (collectively, "Petitioner") and LifeNet Health ("Patent Owner"). *See* IPR2025-00248, Paper 14; IPR2025-00249, Paper 13. On August 20, 2025, Patent Owner requested authorization to file a motion for additional discovery as to objective indicia of nonobviousness, specifically as to alleged commercial success based on sales of Petitioner's "Tapestry" and "ActivBraid" products, which Patent Owner contends practices the claimed invention of the challenged patents. *See* Ex. 3103. Petitioner opposed the request.

The requested discovery was further discussed during a conference call on August 25, 2025 in which the members of this panel, counsel for Patent Owner, and counsel for Petitioner participated. Having considered the parties' respective positions, Patent Owner is authorized to file a motion for additional discovery and Petitioner is authorized to file an opposition to the motion, in accordance with the schedule and page limits specified below. The motion and opposition shall address the applicability of the factors provided in the Board's precedential decision in *Garmin International, Inc. v. Cuozzo Speed Technologies LLC*, IPR2012-00001 (Mar. 5, 2013) (Paper 26) as they are deemed relevant to both proceedings. No reply is authorized at this time.

ORDER

It is hereby:

ORDERED that Patent Owner is authorized to file a motion for additional discovery as to alleged commercial success based on sales of Petitioner's products;

FURTHER ORDERED that the motion shall be seven pages or less in substantive length and filed no later than September 2, 2025;

FURTHER ORDERED that Petitioner is authorized to file an opposition to Patent Owner's motion;

FURTHER ORDERED that any opposition filed shall be seven pages or less in substantive length and filed no later than September 9, 2025; and

FURTHER ORDERED that Patent Owner and Petitioner are each authorized to file additional evidence with their briefs.

FOR PETITIONER:

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