UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TERUMO BCT INC.,

Petitioner

v.

HAEMONETICS CORP.,

Patent Owner

IPR2025-01420

U.S. Patent No. 10,792,416

PETITIONER'S AUTHORIZED PRELIMINARY SUR-REPLY

TABLE OF AUTHORITIES

Cases **Page(s)**

10X Genomics v. President & Fellows of Harv. Coll.,
IPR2023-01299, Paper 15 (Mar. 7, 2024) 2

Generac Power Sys. v. Champion Power Equip., Inc.,
IPR2025-00951, Paper 38 (Feb. 3, 2026).....2

Realtime Data, LLC v. Iancu,
912 F.3d 1368 (Fed. Cir. 2019) 1

Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.,
IPR2025-00632, Paper 20 (Nov. 3, 2025).....2

Tesla v. Intell. Ventures II LLC,
IPR2025-00340, Paper 18 (Nov. 5, 2025).....2

Other Authorities

37 C.F.R. § 42.104(b)(3).....1

EXHIBIT LIST

Exhibit	Reference
1001	U.S. Patent No. 10,792,416 ("'416 patent")
1002	File History of the '416 patent
1003	Declaration of Dr. Gary D. Fletcher in Support of Petition
1004	U.S. Patent No. 4,898,675 ("Lavender")
1005	"Calculations in Apheresis" ("Neyrinck")
1006	U.S. Patent Publication No. 2002/0033370 ("Bainbridge")
1007	U.S. Patent Publication No. 2011/0097344 ("Darashkevich")
1008	U.S. Patent No. 8,075,468 ("Min")
1009	U.S. Patent Publication No. 2017/0029762 ("Turgut")
1010	U.S. Patent No. 6,296,602 ("Headley")
1011	U.S. Patent No. 9,370,324 ("Barrett")
1012	"Membrane versus centrifuge-based therapeutic plasma exchange: a randomized prospective crossover study," Carsten Hafer et al., Int. Urol. Nephrol (2016) 48:133-138; Springer Science+Business Media Dordrecht 2015.
1013	"Volume Limits – Automated Collection of Source Plasma," November 4, 1992, Memorandum issued by the FDA Center for Biologics Evaluation and Research, Docket Number FDA-2013-S-0613.
1014	Bruce C. McLeod, MD, et al., "Apheresis: Principles and Practice," 3rd Edition, AABB Press 2010.
1015	Sergent SR, Ashurst JV. Plasmapheresis. [Updated 2023 Jul 10]. In: StatPearls [Internet]. Treasure Island (FL): StatPearls Publishing; 2025 Jan-. Available from: https://www.ncbi.nlm.nih.gov/books/NBK560566/?report=printable
1016	Japanese Patent Publication No. JP 2002-282352 A and certified Japanese to English translation ("Takagi")
1017	J. Klespitz and L. Kovács, "Identification and control of peristaltic pumps in hemodialysis machines," 14th IEEE International Symposium on Computational Intelligence and Informatics 83-87 (2013)
1018	Curriculum Vitae ("CV") of Dr. Gary D. Fletcher
1019	Search Disclosure Declaration (Filing Party and Board Only)
1020	Redacted Search Disclosure Declaration
1021	U.S. Patent No. 10,758,652 ("'652 patent")
1022	PTAB Notice of Decisions on Institution, Dec. 11, 2025

1023	PTAB Notice of Decisions on Institution, Jan. 9, 2026

Patent Owner incorrectly asserts that (i) Terumo violates 37 C.F.R. § 42.104(b)(3) and (ii) takes irreconcilable claim construction positions for the terms "controller" and "the contents" in *Haemonetics Corp. v. Terumo BCT, Inc.*, Case No. 1:25-cv-01409-RMR-SBP (D. Colo. filed May 5, 2025) (the "District Court Litigation") and in this proceeding. Terumo does not.

First, Terumo complies with 37 C.F.R. § 42.104(b)(3) because the terms "controller" and "the contents" are not in controversy here. 37 C.F.R. § 42.104(b)(3) requires "a statement of the precise relief," including "[h]ow the challenged claim is to be construed," that applies to "only those terms . . . that are in controversy, and only to the extent necessary to resolve the controversy." *Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1375 (Fed. Cir. 2019).

Regarding "controller," Terumo explains that Lavender's "controller" can be a computing device like a microprocessor. *E.g.*, Paper 1 at 14, 29, 30, 46. There is no dispute that these "controllers" exist in the prior art and Patent Owner does not dispute that Lavender discloses a "controller." *See generally* Paper 12. But the '416 patent does not limit a "controller" to ***only*** devices, stating it could encompass a human technician. *E.g.*, EX1001, 10:58–66, 11:29–38. While this scope would render the claims indefinite, Terumo's Petition would succeed regardless of whether "controller" *also* encompasses humans. As there is no controversy, Terumo was not required to construe the term "controller" in its Petition.

For "the contents," Patent Owner does not dispute Terumo's mapping of the term uncollected blood components in the centrifuge. Thus, it is not in controversy here. *E.g.*, Paper 1 at 41; *see also generally* Paper 12. But "the contents" are not defined in the '416 patent's specification, it lacks an antecedent basis, and its scope is unclear. While the outer bounds of the term "the contents" may be unclear, its construction is not relevant to the instant proceeding and it need not be construed here. Such positions are permitted because Terumo "show[s] that, notwithstanding the alleged indefiniteness of the claim term, an ordinarily skilled artisan would understand that the asserted art satisfies the claim limitation (such as if the limitation prescribed a range and only the outer bounds of the range were unclear)." *Tesla v. Intell. Ventures II LLC*, IPR2025-00340, Paper 18 at 3–4 (Nov. 5, 2025).

These explanations satisfy *Revvo* and its progeny. The mere fact that Terumo has raised different issues in different forums does not preclude institution. *10X Genomics v. President & Fellows of Harv. Coll.*, IPR2023-01299, Paper 15 at 11 (Mar. 7, 2024); *Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.*, IPR2025-00632, Paper 20 at 3–4 (Nov. 3, 2025); *Tesla*, IPR2025-00340, Paper 18 at 3–4. Patent Owner's cited post-*Tesla* and post-*Revvo* decisions deny institution only where a petitioner takes irreconcilable positions. *Generac Power Sys. v. Champion Power Equip., Inc.*, IPR2025-00951, Paper 38 at 4–5 (Feb. 3, 2026). That is not the case.

Second, Terumo's positions have been consistent. Terumo states that a

"controller" encompasses a human technician performing math and challenges the scope of the '416 patent's family members before the Board under § 101, consistent with its § 112(f) construction position that a controller can be a human or a computer. *See, e.g.*, PGR2026-00009, Paper 5 at 69–82. Likewise, since the term "the contents" is not defined, Terumo consistently maps it to uncollected blood components, which are undisputedly found in the prior art.

Further, these positions were driven by Patent Owner's own litigation antics. Patent Owner characterizes the claims as requiring a specialized, structural "controller" and asserts the claimed operations cannot be performed mentally, ignoring the specification's express discussion of a technician being a "controller." *E.g.*, PGR2026-00009, Paper 11 at 45. Likewise, to argue against anticipation, Patent Owner suggests that systems which may not return some platelets from the separation device do not meet its claims. *E.g.*, PGR2025-00077, Paper 6 at 18. These antics drove the need for the District Court to assess the outer bounds of both terms potentially under § 112(f). § 42.204(b)(3) not as limiting as Patent Owner submits, and a bright-line rule prohibiting new, rebuttal arguments made in response to Patent Owner's arguments is not contemplated in the Director's *Revvo* and *Tesla* decisions.

For at least the foregoing reasons and for the reasons Terumo outlined in its Petition (Paper 1), institution of a trial is warranted.

Respectfully submitted,

Date: February 26, 2026

/John M. Caracappa, Reg. No. 43,532/
John M. Caracappa, Reg. No. 43,532
Katherine D. Cappaert, Reg. No. 71,639
Matthew Y. Sim, Reg. No. 77,422
Daniel Scott Chappell, Reg. No. 76,333
STEPTOE LLP
1330 Connecticut Avenue N.W.
Washington, D.C. 20036
Tel: (202) 429-3000
Fax: (202) 429-3902

Counsel for Terumo BCT, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies service pursuant to 37 C.F.R. §§ 42.6(e) and 42.105(b) on the Patent Owner on February 26, 2026 by filing a copy of this PETITIONER'S AUTHORIZED PRELIMINARY SUR-REPLY TO PATENT OWNER'S PRELIMINARY RESPONSE through the P-TACTS platform and served a true and correct copy of the foregoing by electronic mail on the following counsel for Patent Owner:

Via Email:
Erik B. Milch
emilch@proskauer.com
Joseph Drayton
jdrayton@proskauer.com
Elizabeth Shrieves
eshrieves@proskauer.com
Alan S. Teran
ateran@proskauer.com
Connor J. Villar
cvillar@proskauer.com

Respectfully submitted,

Date: February 26, 2026

/John M. Caracappa, Reg. No. 43,532/
John M. Caracappa, Reg. No. 43,532
STEPTOE LLP
1330 Connecticut Avenue N.W.
Washington, D.C. 20036
Tel: (202) 429-3000
Fax: (202) 429-3902

Counsel for Terumo BCT, Inc.