

From: [Trials](#)
To: [Mark J. DeBoy](#); [Nguyen, Lisa K.](#); [Patrick Finnan](#); [Larry Shatzer](#); [PH-Resmed-Fractus](#)
Cc: [Trials](#)
Subject: RE: IPR2026-00191 – Petitioner Request for Reply to POPR
Date: Thursday, April 23, 2026 12:26:23 PM
Attachments: [image002.png](#)
[image003.png](#)
[image001.png](#)

Counsel,

Petitioner is authorized to file a 3-page preliminary reply in IPR2026-00191, due no later than April 28, 2026, limited to addressing what Petitioner characterizes as (1) arguments about competing expert positions for ground 3 of the petition and (2) a collateral attack on the institution decision in IPR2025-01026, which this proceeding seeks to join. Patent Owner is authorized to file a 3-page preliminary sur-reply in IPR2026-00191 due not later than May 1, 2026, limited to addressing the same issues.

The parties should file their briefs as papers in P-TACTS. The parties are not authorized to file any evidence at this time.

Regards,

Andrew Kellogg,
Deputy Chief Clerk, Trials
Patent Trial and Appeal Board
USPTO
andrew.kellogg@uspto.gov
(571) 272-5366



From: Mark J. DeBoy <mdeboy@esfip.com>
Sent: Friday, April 17, 2026 11:48 AM
To: Nguyen, Lisa K. <lisanguyen@paulhastings.com>; Trials <Trials@USPTO.GOV>
Cc: Patrick Finnan <pfinnan@esfip.com>; Larry Shatzer <lshatzer@esfip.com>; PH-Resmed-Fractus <PH-Resmed-Fractus@paulhastings.com>
Subject: RE: IPR2026-00191 – Petitioner Request for Reply to POPR

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To the Honorable Board,

Patent Owner opposes Petitioner's request for a 5-page reply to the Patent Owner Preliminary Response in the *inter partes* review IPR2026-00191.

Patent Owner respectfully submits that good cause does not exist for Petitioner's request. Regarding Petitioner's issue (1), Patent Owner has not relied on expert testimony in its arguments against Ground 3. For example, Patent Owner does not make a single citation to its expert declarations in Section V.A of the Patent Owner Preliminary Response directed to Ground 3. Patent Owner relies on the government's own orders and regulations which speak for themselves. Therefore, Petitioner's position that good cause exists to address "competing expert positions for Ground 3" is incorrect. Regarding issue (2), Patent Owner is not "attempt[ing] to relitigate the Board's institution decision in a different proceeding." Patent Owner was within its rights to submit new and different evidence in this proceeding. Petitioner failing to uncover and address this new evidence in the Petition cannot give rise to good cause for a reply as Petitioner made the strategic decision to file a copycat petition.

With regards to the allegation that Petitioner was in contravention of the Board's rules, Patent Owner made substantial efforts to reach an agreement with Petitioner and send a joint email. As indicated in the attached email correspondence, the parties reached an impasse.

In the event Petitioner is granted a reply, Patent Owner requests a sur-reply of equal length.

Patent Owner is available throughout the week of April 20, 2026 should there be a need for a conference call.

Respectfully submitted,

Mark DeBoy

Lead Counsel for Patent Owner Fractus S.A. in IPR2026-00191

Mark J. DeBoy

Partner



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From: Nguyen, Lisa K. <lisanguyen@paulhastings.com>
Sent: Friday, April 17, 2026 11:27 AM
To: Trials <trials@uspto.gov>
Cc: Mark J. DeBoy <mdeboy@esfip.com>; Patrick Finnan <pfinnan@esfip.com>; Larry Shatzer <lshatzer@esfip.com>; PH-Resmed-Fractus <PH-Resmed-Fractus@paulhastings.com>
Subject: IPR2026-00191 – Petitioner Request for Reply to POPR

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To the Honorable Board,

Petitioner requests leave to file a 5-page Reply to address (1) new arguments regarding competing expert positions for Ground 3, and (2) the improper collateral attack on the institution decision in IPR2025-01026, to which joinder is sought (see Motion for Joinder (Paper 3)). Good cause exists because the POPR incorrectly invites the Board to weigh conflicting expert testimony at the institution stage and attempts to relitigate the Board's institution decision in a different proceeding. A short, targeted Reply will clarify the record and assist the Director and Board. Petitioner does not oppose a surreply of equal length.

Unfortunately, in contravention to the Board's rules, Patent Owner declined to permit including its position in this email and indicated that it will respond separately to the Board with its position.

Petitioner is available throughout the week of April 20, 2026 should there be a need for a conference call.

Respectfully submitted,
Lisa Nguyen
Lead Counsel for Petitioner

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HASTINGS

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