

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RESMED CORP.,
Petitioner,

v.

FRACTUS, S.A.,
Patent Owner.

Case No. IPR2026-00341
Patent No. 8,362,960

**PATENT OWNER'S REPLY TO
PETITIONER'S CORRECTED OPPOSITION TO
PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL**

EXHIBIT LIST

Exhibit No.	Title
EX2001	U.S. Patent No. 8,810,458
EX2002	Letter of June 21, 2021 from Ruben Bonet to David Pendarvis
EX2003	Attachment to email of November 9, 2022 (EX2004 at 6-7)
EX2004	Email correspondence between Fractus and ResMed sent from July 26, 2021 through March 24, 2023
EX2005	Joint Motion to Dismiss with Prejudice in <i>Fractus, S.A. v. ADT LLC</i> , Case No. 2:22-cv-00412-JRG
EX2006	“Fractus expands IoT patent licensing program signing ADT agreement and ending litigation,” https://www.prnewswire.com/news-releases/fractus-expands-iot-patent-licensing-program-signing-adt-agreement-and-ending-litigation-302264328.html (last accessed June 21, 2026)
EX2007	“Fractus expands U.S. connected safety licensing via RPX agreement,” https://www.fractus.com/company/news/fractus-expands-u-s-connected-safety-licensing-via-rpx-agreement/ (last accessed June 21, 2026)
EX2008	“Fractus welcomes new licensee, expanding presence in the U.S. smart home market,” https://www.fractus.com/company/news/fractus-welcomes-new-licensee-expanding-presence-in-the-u-s-smart-home-market/ (last accessed June 21, 2026)
EX2009	Photos of Resmed’s AirSense 10 4G product
EX2010	“Our Global Offices,” https://www.taoglas.com/about-taoglas/taoglas-office-locations/ (last accessed August 21, 2026)

EX2011	Expert Declaration of Hossein Hashemi, Ph.D.
EX2012	“How do I connect my machine to the Internet?” https://ap.resmed.com/knowledge/how-do-i-connect-my-machine-to-the-internet
EX2013	“Our History,” https://www.resmed.com/en-us/about-us/history/ (last accessed 10/5/2026)
EX2014	Transcript of “ResMed: Improving Patient Outcomes with Serverless at Scale,” https://www.youtube.com/watch?v=kszaIJEnKPk (last accessed 10/5/2026)
EX2015	Resmed FCC ID Applications, https://fccid.io/2ACHL (last accessed 10/5/2026)
EX2016	Airsense 10 User Guide, https://document.resmed.com/documents/products/machine/airsense-series/user-guide/3781122_airsense-10_user-guide_amer_multi.pdf (last accessed 10/5/2026)
EX2017	“ResMed Software Executive to Speak at Connected Health Summit,” https://newsroom.resmed.com/news-releases/news-details/2017/ResMed-Software-Executive-to-Speak-at-Connected-Health-Summit/default.aspx (last accessed 10/5/2026)
EX2018	“Solutions,” Fractus.com, https://web.archive.org/web/20160811102829/http://www.fractus.com/solutions/ (last accessed 10/5/2026)
EX2019	“Airsense 10 Series,” https://www.resmed.com/en-us/products/cpap/machines/airsense-10 (Last accessed 10/5/2026)

I. Introduction

The Opposition (Paper 11) argues that Petitioner could not have expected that Patent Owner (“PO”) would assert the ’960 Patent against it because PO has not asserted or licensed its patents in Petitioner’s “technology space.” Opposition at 14. Petitioner, however, presents a characterization of the relevant “technology space” for its devices which ignores substantial functionality of the devices. Instead, the relevant “technology space” for Petitioner’s products and the ’960 Patent is wirelessly connected devices, a field that Petitioner has operated in since *at least* 2014. Further, PO has also operated in Petitioner’s self-defined “medical devices” technology space for a substantial period of time. Accordingly, the settled expectations of the parties favor discretionary denial of the Petition.

II. The Relevant Technology Space is Wirelessly Connected Devices

Petitioner’s devices are wirelessly connected devices which send and receive signals for mobile communication services and “include[] cellular communication technology” that “connects automatically when [a] machine is within a cellular coverage area.” EX2012 at 1. Petitioner has provided wireless connectivity in its devices since *at least* 2014 when it purportedly “made history” by providing cloud connectable devices. EX2014 at 4. Petitioner describes its devices as IoT devices. EX2014 at 4-5. Petitioner has registered its devices with the Federal Communications Commission (“FCC”) as wireless devices, confirming that the

devices conform with FCC standards for wireless devices. EX2015; EX2016 at 19. Petitioner's products are undeniably wirelessly connected devices in the eyes of Petitioner and the Government. To divorce Petitioner's devices from the functionality they provide in the wirelessly connected device technology space is to ignore how Petitioner's devices operate, how they are classified by the Government and how they are marketed to consumers.

That Petitioner's devices provide additional functionality does not remove the devices from the pertinent wirelessly connected device space. For example, smartphones, laptops, and tablets provide numerous functions unrelated to their wireless connectivity, such as gaming, video playback, word processing, medical monitoring, productivity, photography, and videography, among many others. This additional functionality does not limit these devices to the "gaming" or "camera" technology spaces, nor does the additional functionality of Petitioner's devices limit them to the medical device space.

III. Wirelessly Connected Device Space Settled Expectations Favor Denial

The fact Petitioner's devices provide functionality in addition to their wireless connectivity does not shield it from the settled expectations directed to wirelessly connected devices and the '960 Patent. Petitioner's devices are wirelessly connected consumer devices, like those Patent Owner has previously asserted its patents against. For example, Petitioner's devices utilize the infrastructure of cellular

carriers, such as AT&T, T-Mobile, Sprint and Verizon. EX2012 at 1. Petitioner's devices communicate with smartphones, like those provided by Samsung, LG, ZTE and TCL. EX2016 at 11; EX2019 at 5-6. Petitioner's devices utilize wireless infrastructure, such as that provided by Commscope. EX2012 at 1.¹ Petitioner's devices incorporate cellular antennas like those provide by Amphenol. Opposition at 17. Petitioner's devices provide IoT monitoring, like those provided by Vivint and ADT. EX2014 at 4-5.

Petitioner concedes that PO has been "litigating its patents for over a decade," and has asserted its patents against Samsung, LG, ZTE, TCL, AT&T, T-Mobile, Sprint, Verizon, Vivint and ADT, and wireless infrastructure providers like Commscope. Opposition at 11. As Petitioner's devices are devices within the same wirelessly connected device technology space as these companies, Petitioner's

¹ The Opposition is incorrect that PO asserted its patents against American Tower. Opposition at 11. PO had a third party subpoena dispute with American Tower. *See Fractus, S.A. v. American Tower Corporation et al.*, No. 1:2019cv10658 (D. Mass. 2019). Petitioner is correct that Patent Owner has asserted its patents against wireless infrastructure providers, including Commscope. *See Fractus, S.A. v. AT&T Mobility, LLC, et al.*, No. 2:18-cv-00135-JRG (E.D. Tex. 2018).

devices are subject to the same settled expectations as other wirelessly connected device manufacturers.

Further, Petitioner concedes that PO has publicly “describ[ed] its licensing program in terms of the ‘Internet of Things (IoT) sector.’” Petitioner claims they would not have had any reason to expect assertion against them based on this description. Opposition at 12. This, however, cannot be the case – the IoT sector is precisely the sector in which Petitioner’s devices operate dating back to at least 2017. EX2014; *see also* EX2017.

Accordingly, when the relevant technology space for Petitioner’s devices is considered, that of wirelessly connected devices, the settled expectations favor discretionary denial of the Petition.

IV. Settled Expectations in the Medical Device Space Favor Denial

Contrary to Petitioner’s assertions, PO has applied its technology within the medical device space. As indicated by the screenshot below from PO’s website as of August 11, 2016, PO provided solutions within the “medical devices” technology space over a decade ago. EX2018 at 4.²



Wearables and medical
devices

² This webpage is provided by the Internet Archive’s Wayback Machine, and the address confirms this is the webpage as of August 11, 2016. MPEP § 2128.II.E.

Further, the '960 Patent discloses that “[i]n some embodiments of the invention, each of said frequency bands is contained within one of the following regions of the electromagnetic spectrum, indicated as examples and without limitation: **Industrial, Scientific, Medical (ISM) unlicensed bands.**” EX1001 at 9:44-49 (emphasis added). As understood by the POSITA, the ISM bands are bands that are reserved for, as their name indicates, industrial, scientific, and **medical** equipment. *See* 47 C.F.R. § 18.107(c). Accordingly, the '960 Patent itself indicates potential applicability for medical devices.

Further, PO has licensed its patents, including the '960 Patent, in the medical device space, including wearable and pendant safety monitoring devices. EX2007. Accordingly, even if it were appropriate to limit Petitioner's devices to the medical devices technology space – which it is not – settled expectations would still favor discretionarily denying the Petition.

Finally, Petitioner mischaracterizes the communications in which PO explicitly informed Petitioner of the '960 Patent over 5 years ago. Opposition at 17. Petitioner claims that PO failed to engage in discussions, but it was Petitioner who refused to enter into negotiations by refusing to sign an NDA. EX2004 at 1-6.

Dated: October 5, 2026

Respectfully submitted,
/Mark J. DeBoy/
Mark J. DeBoy (Reg. 66,983)
Attorney for Patent Owner, Fractus S.A.

CERTIFICATE OF SERVICE

The undersigned certifies that pursuant to 37 C.F.R. § 42.6(e), a copy of the foregoing **PATENT OWNER'S REPLY TO PETITIONER'S CORRECTED OPPOSITION TO PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL** and accompanying **EXHIBITS** were served via email (as previously consented to by counsel) on October 5, 2026 to lead and backup counsel of record for Petitioners as follows:

PH-Resmed-Fractus-IPR@paulhastings.com

Dated: October 5, 2026

/Mark J. DeBoy/

Mark J. DeBoy (Reg. No. 66,983)

Attorney for Patent Owner

Fractus S.A.