

From: [Director Discretionary Decision](#)
To: [Alex Gasser](#)
Cc: [Director Discretionary Decision](#); [NRF Teladoc DataHealth](#); [Michael Pomeroy](#); [Shelbye Harbour](#); [Chad Wallis](#); [Michael Solomita](#); [Paul Skiermont](#); [Alex Gasser](#); [stephen.guzzi@nortonrosefulbright.com](#)
Subject: RE: IPR2026-00390/IPR2026-00391 Teladoc Health, Inc. v. Data Health Partners, Inc. -- Request for Conference Call Regarding Motion to Strike
Date: Thursday, September 17, 2026 8:52:42 AM

Petitioner's Opposition to Discretionary Denial Brief is accepted. Patent Owner's request for authorization to file a motion to strike is denied.

From: Alex Gasser <AGasser@skiermontderby.com>
Sent: Wednesday, September 16, 2026 11:05 PM
To: Trials <Trials@USPTO.GOV>
Cc: NRF_Teladoc_DataHealth <NRF_Teladoc_DataHealth@nortonrosefulbright.com>; Michael Pomeroy <mpomeroy@skiermontderby.com>; Shelbye Harbour <sharbour@skiermontderby.com>; Chad Wallis <chad.wallis@nortonrosefulbright.com>; Michael Solomita <michael.solomita@nortonrosefulbright.com>; Paul Skiermont <pskiermont@skiermontderby.com>; Alex Gasser <AGasser@skiermontderby.com>; stephen.guzzi@nortonrosefulbright.com
Subject: Re: IPR2026-00390/IPR2026-00391 Teladoc Health, Inc. v. Data Health Partners, Inc. -- Request for Conference Call Regarding Motion to Strike

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Dear PTAB Case Managers and Panel,

Pursuant to 37 C.F.R. § 42.20(b) and the Scheduling Order in each of these proceedings, Patent Owner Data Health Partners, Inc. respectfully requests a teleconference with the Board to seek authorization to file a Motion to Strike in each proceeding.

Alternatively, if the Board prefers, Patent Owner requests authorization to file the motion directly without a prior conference. To the extent necessary, Petitioner requests an extension of time or acceptance of the filings under 37 C.F.R. § 42.5(b)(2)-(3).

Patent Owner's Position:

On September 10, 2026, in each of the above-identified proceedings, Petitioner filed its Opposition to Discretionary Denial Brief (Paper No. 7 in each proceeding).

This filing is untimely under the Board's June 9, 2026, Notice of Filing Dates Accorded (Paper No. 3 in each proceeding), which explicitly set the deadline for this submission as three months from the date of the June 9, 2026, Notice (i.e., September 9, 2026). Petitioner did not seek prior leave from the Board, nor have they demonstrated good cause for this late filing.

Because Paper No. 7 accordingly contains unauthorized arguments and evidence, Patent Owner respectfully requests authorization to move to strike the improper filing to prevent prejudice and maintain the orderly schedule of this proceeding.

Petitioner's Position:

To the extent Petitioner's Opposition to Discretionary Denial Brief was untimely, Petitioner respectfully submits that it was a good-faith mistake. Petitioner operated under the procedure set forth in the March 26, 2025, Memorandum re Interim Processes for PTAB Workload Management (Process Memorandum), which the Notice of Filing Dates Accorded explicitly points to, via its invitation for the parties to consult, and hyperlink to, the Interim Director Discretionary Process web page. The Process Memorandum sets the timeline to "file an opposition brief no later than one month after the patent owner files its brief." Because Patent Owner filed its Discretionary Denial Brief (Paper No. 6) on August 10, 2026, Petitioner believed its Opposition was not due until September 10, 2026. Petitioner believed this to be consistent with the intent of the Notice of Filing Dates Accorded given the two-month and three-month timelines set forth therein.

If the Notice of Filing Dates Accorded supersedes the timeline set out by the Director in the Process Memorandum, Petitioner respectfully requests a one-day extension of time or acceptance of the filings under 37 C.F.R. § 42.5(b)(2)-(3). Petitioner respectfully submits (i) there is good cause because Petitioner's Opposition will assist the Board in its resolution of the issues and allowing Petitioner the full month contemplated by both the Memorandum and the Notice does not introduce any prejudice or unfairness to Patent Owner, and (ii) the acceptance of Petitioner's filing would be in the interests of justice because Patent Owner also filed its Discretionary Denial Brief one day after the timeline set out in the Notice of Filing Dates Accorded.

From September 11 through September 15, 2026, counsel for Patent Owner conferred with counsel for Petitioner via email regarding this matter. Petitioner stated that it opposes this request and/or refused to withdraw the filings.

Counsel Availability:

Should the Board determine that a conference call is necessary, counsel for both parties are available

at the following times:

- Thursday, September 17, 2026 – 10:00 AM – 5:00 PM EST;
- Friday, September 18, 2026 – 10:00 AM – 5:00 PM EST;
- Monday, September 21, 2026 – 9:00 AM – 11:30 AM EST;
- Tuesday, September 22, 2026 – 12:00 PM – 5:00 PM EST; and
- Wednesday, September 23, 2026 – 9:00 AM – 12:00 PM EST.

Respectfully submitted,

Alexander E. Gasser

Lead Counsel for Data Health Partners, Inc.

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cc: All Counsel of Record