

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Avation Medical, Inc.,

Petitioner

v.

EMKinetics, Inc.,

Patent Owner

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Case No. PGR2024-00043  
U.S. Patent No. 11,844,943

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**PETITIONER'S REQUEST FOR ORAL ARGUMENT**

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In accordance with 37 C.F.R. § 42.70, Petitioner Avation Medical, Inc. (“Avation”) respectfully requests oral argument in this proceeding on all of the instituted grounds of review of U.S. Patent No. 11,844,943 (“the ‘943 Patent”).

The current date for Oral Hearing set by the Board in this proceeding is October 23, 2025. *See* Paper No. 16 at 2. Avation, however, contacted the Board via email on September 5, 2025 and September 9, 2025 to request that the oral hearing be rescheduled due to an unavoidable conflict in its lead counsel’s schedule due to a district court trial set to begin on October 20, 2025. Counsel for Avation is available at the Board’s convenience to discuss the request if it would be helpful to the Board. Avation understands the oral hearing will be held in-person at USPTO headquarters in Alexandria, Virginia.

Avation respectfully requests 45 minutes to address the ‘943 Patent and the issues below or, to the extent it is greater, the amount of time granted to Patent Owner EMKinetics, Inc. (“EMK”). Avation also requests the ability to reserve a portion of its total time for presenting rebuttal arguments after EMK’s presentation. *See* November 2019 Consolidated Trial Practice Guide at 83.

Pursuant to 37 C.F.R. § 42.70(a), and without intending to waive any issue not specifically identified, Avation requests the ability to present arguments on the following issues:

1. The grounds on which the proceeding was instituted, including the issues and evidence raised in the parties' briefing and supporting declarations and exhibits, including but not limited to:

a. Whether claims 1 and 3-5 of the '943 Patent are anticipated by Svihra (Ex.1004) (Ground 1);

b. Whether claims 2 and 6-13 of the '943 Patent would have been obvious over Svihra (Ex.1004) in view of the knowledge of a person of ordinary skill in the art ("POSA") (Ground 2);

c. Whether claims 14, 16-18, 27, and 29-31 of the '943 Patent would have been obvious over Svihra (Ex.1004) in view of Johnson (Ex.1007) (Ground 3);

d. Whether claims 15, 19-26, 28, and 32-39 of the '943 Patent would have been obvious over Svihra (Ex.1004) in view of Johnson (Ex.1007) and the knowledge of a POSA (Ground 4);

e. Whether claims 1-3 and 5 of the '943 Patent are anticipated by Amarenco (Ex.1005) (Ground 5);

f. Whether claims 4 and 6-13 of the '943 Patent would have been obvious over Amarenco (Ex.1005) in view of the knowledge of a POSA (Ground 6);

g. Whether claims 14-16, 18, 27-29, and 31 of the ‘943 Patent would have been obvious over Amarenco (Ex.1005) in view of Johnson (Ex.1007) (Ground 7);

h. Whether claims 17, 19-26, 30, and 32-39 of the ‘943 Patent would have been obvious over Amarenco (Ex.1005) in view of Johnson (Ex.1007) and the knowledge of a POSA (Ground 8);

i. Whether claims 1-3 and 5-13 of the ‘943 Patent are anticipated by Burnett (Ex.1006) (Ground 9);

j. Whether claims 4 and 14-39 of the ‘943 Patent would have been obvious over Burnett (Ex.1006) in view of Johnson (Ex.1007) and the knowledge of a POSA (Ground 10);

k. Whether claims 1-39 of the ‘943 Patent are invalid for lack of enablement under 35 U.S.C. § 112 (Ground 11);

2. Any issues raised in the parties’ papers in this trial and the Board’s institution decision;

3. Any issues raised by EMK in any request(s) for oral argument;

4. Rebuttal to EMK’s presentation on all matters;

5. Any procedural and/or evidentiary issues raised by the parties;

6. Any issues raised by the parties in any filings contemporaneous or subsequent to this Request, including any motions to exclude in this proceeding;

7. Any additional issue the parties raise or propose to raise at or before the oral argument; and

8. Any additional issues on which the Board seeks information or clarification.

Avation also respectfully requests the ability to use audio visual equipment to display demonstrative exhibits at the hearing, including the use of a projector to connect a laptop for a PowerPoint presentation.

Dated: September 17, 2025

Respectfully submitted,

/s/ Kyle Deighan

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## **CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing **PETITIONER'S REQUEST FOR ORAL ARGUMENT** were served by email to Patent Owner by serving the email correspondence addresses of record as follows in accordance with 37 C.F.R. §42.105(a):

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Dated: September 17, 2025

/s/ Kyle Deighan

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